



STANDARDS AND CONDUCT COMMITTEE

Meeting to be held in Civic Hall on
Friday, 20th July, 2012
at 1.30 pm

MEMBERSHIP

Councillors

J Harper
K Maqsood
E Nash (Chair)
B Selby

C Campbell

P Harrand

B Gettings

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an appeal the press and public will be excluded).</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <ol style="list-style-type: none"> 1. To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report. 2. To consider whether or not to accept the officers recommendation in respect of the above information. 3. If so, to formally pass the following resolution:- <p>RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:-</p>	

Item No	Ward	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstances shall be specified in the minutes.)</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19-20 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence from the meeting.</p>	
6			<p>CHAIR'S OPENING REMARKS</p> <p>To receive any remarks which the Chair wishes to make.</p>	
7			<p>NEW STANDARDS AND CONDUCT REGIME</p> <p>To receive a report of the City Solicitor setting out the new standards and conduct arrangements adopted by full Council and proposing terms of reference for the new sub-committee of the Standards and Conduct Committee.</p>	1 - 24
8			<p>REVIEW OF THE LOCAL CODES AND PROTOCOLS</p> <p>To receive a report of the City Solicitor proposing amendments to some of the local codes and protocols to bring them up to date and asking the Committee to consider how they could be further improved in due course.</p>	25 - 82

Item No	Ward	Item Not Open		Page No
9			<p>STANDARDS AND CONDUCT COMMITTEE WORK PROGRAMME</p> <p>To receive a report of the City Solicitor presenting the Committee with a draft work programme for the remaining meetings of the municipal year.</p>	83 - 86

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 20th July 2012

Subject: New standards and conduct regime

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This report sets out the new standards and conduct arrangements adopted by full Council and proposes terms of reference for the new sub-committee of the Standards and Conduct Committee.
2. At the Annual Meeting, full Council approved the new Members' Code of Conduct, the terms of reference for the Standards and Conduct Committee, and the procedure for handling complaints under the new Code of Conduct.
3. On 11th July, full Council appointed the Independent Person and reconfirmed the decisions made at the Annual Meeting.
4. The proposed terms of reference for the Consideration Sub-Committee are attached as Appendix 4.

Recommendations

5. The Standards and Conduct Committee is asked to:
 - note the new standards and conduct arrangements adopted by full Council;
 - approve the terms of reference for the new sub-committee; and
 - agree the proposed substitute arrangements as set out in the report.

1 Purpose of this report

- 1.1 This report sets out the new standards and conduct arrangements adopted by full Council and proposes terms of reference for the new sub-committee of the Standards and Conduct Committee.

2 Background information

- 2.1 On 1st July 2012 Chapter 7 of the Localism Act 2011 came into force. This abolished the previous standards board regime, including the model code of conduct and the Standards Committee (and its Sub-Committees).
- 2.2 Under the Act the Council now has a duty to promote and maintain high standards of conduct by members and co-opted members of the authority. In particular, the Council must adopt a code of conduct for members.
- 2.3 The Council must make arrangements under which allegations of a breach of this code of conduct can be investigated and decided. This includes appointing an Independent Person to advise on allegations of misconduct before they are decided by the authority.
- 2.4 The Localism Act also introduced new arrangements for Members to register and declare their disclosable pecuniary interests, and made failure to comply with these arrangements a criminal offence.

3 Main issues

- 3.1 At the Annual Meeting on 21st May 2012 full Council decided to:
- Adopt the new Members' Code of Conduct (Appendix 1);
 - Adopt the procedure for handling complaints of misconduct (Appendix 2); and
 - Appoint the Standards and Conduct Committee (the Terms of Reference are attached as Appendix 3).
- 3.2 Following the publication of the relevant commencement order, it was decided that full Council needed to reconfirm its decision to adopt the Code and the procedure for handling complaints. This was to avoid any doubt about whether the Council had any powers to adopt these documents before the commencement order was published. The adoption of the documents was reconfirmed by full Council on 11th July 2012.
- 3.3 The Members' Code of Conduct was also amended before it was adopted by full Council on 11th July 2012 to insert the definition of a disclosable pecuniary interest.

Appointment of the Independent Person

- 3.4 As part of the arrangements for investigating and deciding complaints the Council had to appoint at least one Independent Person. The role of the Independent

Person is described in Annex 1 to the procedure for handling complaints (Appendix 2).

- 3.5 In summary, the Independent Person will be asked to provide a view on any allegation being considered by the Sub-Committee of the Standards and Conduct Committee, and may be asked for a view by a subject Member at any point.
- 3.6 Full Council have decided to appoint Mr Gordon Tollefson as the Independent Person. Mr Tollefson was previously the Independent Chair of the Standards Committee.
- 3.7 Mr Tollefson's contact details will be provided to each subject Member as soon as they are notified of the complaint, and will also be available in the Council Yearbook.

Appointment of the Sub-Committee

- 3.8 The procedure for handling complaints allows each subject Member to know the details of the complaint made against them when the complaint is received by the Monitoring Officer. If the Monitoring Officer considers that the complaint is valid then it will be referred to the subject Member and the Group Whip for them to consider and attempt to resolve within 28 days. The subject Member may also contact the Independent Person for advice during this period.
- 3.9 The Monitoring Officer, in consultation with the Chair of the Standards and Conduct Committee, will decide whether the matter has been appropriately addressed by the subject Member and/or Group Whip. Only if the matter remains unresolved will it be dealt with by the Sub-Committee of the Standards and Conduct Committee.
- 3.10 As set out in paragraph 21 of the procedure, the Sub-Committee will be made up of three Members of the Standards and Conduct Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the meeting, but cannot be from the same political group as the subject Member.
- 3.11 If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Sub-Committee meeting. The Parish Member will not be entitled to vote at the meeting, but will be entitled to speak at the discretion of the Chair.
- 3.12 At the Annual Meeting, full Council appointed both Councillor Paul Cook (Morley Town Council) and Councillor Mrs Pat Walker (Pool-in-Wharfedale Parish Council) to the Committee in this capacity. Both are former Parish Members of the Standards Committee.
- 3.13 It is proposed that no membership is set for the Sub-Committee, and the membership for each Sub-Committee meeting will be based on availability and compliance with the rules set out above.

- 3.14 The proposed terms of reference for the Sub-Committee are set out at Appendix 4 to this report. The powers of the Sub-Committee differ depending on whether the complaint relates to a Leeds City Councillor or a Parish or Town Councillor. This is because it will be up to the Parish or Town Council to decide whether to impose a sanction on the subject Member, and therefore the Sub-Committee can only reach a finding about whether there has been a breach.
- 3.15 The Sub-Committee also has no authority to deal with complaints about a failure to comply with the rules regarding disclosable pecuniary interests, as such matters are dealt with by the Police as potential criminal offences.

Substitute arrangements

- 3.16 The Standards and Conduct Committee may also wish to consider what substitute arrangements should be put in place. When this issue was discussed by the Member Working Group it was considered appropriate that any substitutes should be drawn from a defined pool of Members who have received training on the new Members' Code of Conduct.
- 3.17 The Standards and Conduct Committee are therefore asked to agree that the Group Whips should be approached to nominate a list of substitute Members who have received training on the new Members' Code of Conduct. These substitutes would be available for meetings of the Standards and Conduct Committee and meetings of the relevant sub-committee.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Group Whips were consulted on the Code of Conduct, the Procedure for handling complaints and the terms of reference of the Standards and Conduct Committee, before they were presented to the General Purposes Committee and full Council for approval.
- 4.1.2 All Members are now being offered training on the new standards regime through Member Development, and all Members have received briefing notes on the requirements for them to register and declare their disclosable pecuniary interests.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

4.3 Council policies and City Priorities

- 4.3.1 The work of the Standards and Conduct Committee and its Sub-Committee will contribute to promoting and maintaining high standards of conduct by Members, and principle 3 of the Code of Corporate Governance which relates to good conduct and behaviour.

4.4 Resources and value for money

- 4.4.1 There are cost implications in operating this new standards regime, but costs have reduced due to the reduction in Special Responsibility Allowances and investigations.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Standards and Conduct Committee has responsibility for promoting and maintaining high standards of conduct within Leeds City Council, and for making arrangements to consider and determine written allegations that a member has failed to comply with the code of conduct.

4.6 Risk Management

- 4.6.1 There are risks associated with Members not being aware of the changes to the standards regime and potentially breaching the code of conduct as a result. These risks are being mitigated by the briefing notes that have been circulated to Members on the new requirements.

5 Conclusions

- 5.1 The proposed terms of reference for the Sub-Committee are set out at Appendix 4 to this report. The powers of the Sub-Committee differ depending on whether the complaint relates to a Leeds City Councillor or a Parish or Town Councillor. This is because it will be up to the Parish or Town Council to decide whether to impose a sanction on the subject Member, and therefore the Sub-Committee can only reach a finding about whether there has been a breach.
- 5.2 The Sub-Committee also has no authority to deal with complaints about a failure to comply with the rules regarding disclosable pecuniary interests, as such matters are dealt with by the Police as potential criminal offences.

6 Recommendations

- 6.1 The Standards and Conduct Committee is asked to:
- note the new standards and conduct arrangements adopted by full Council;
 - approve the terms of reference for the new sub-committee; and
 - agree the proposed substitute arrangements as set out in the report.

7 Background documents¹

- 7.1 Chapter 7 of the Localism Act 2011

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

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Leeds City Council Members' Code of Conduct

This Code applies to elected Members and voting co-opted Members of Leeds City Council in all aspects of their public life. This means that the Council expects Members to follow this Code when they are conducting the work of the Council, representing the Council on any external organisation, and otherwise acting in their official capacity. The Code of Conduct does not apply to what Members do in their purely private and personal lives¹.

Part One - Standards of Conduct

You must have regard to, and act in accordance with, the following standards of conduct²:

1. **Selflessness**

You should serve only in the public interest, and should never improperly confer an advantage or disadvantage on any person, organisation or group, or any other third party.³

2. **Honesty and Integrity**

You should not place yourself in situations where your honesty and integrity may be questioned, you should not behave improperly and should avoid the appearance of such behaviour.

3. **Objectivity**

You must make decisions based on the information before you, having had regard to any professional advice provided to you and in accordance with your view of the public interest.

You should make decisions on merit, this includes when making appointments, awarding contracts, or recommending individuals for awards or other recognition.

4. **Accountability**

You are accountable to the public for your decisions and actions and the manner in which you carry out your duties. You must co-operate fully and honestly with any scrutiny appropriate to your office.

You should not undertake any action which would bring the Council, your position, or the position of Members generally, into disrepute.

5. **Openness**

You must be as open as possible about your actions and those of the authority, and should be prepared to give reasons for those actions.

¹ When engaging in political activities such as canvassing for re-election Members are not acting in their official capacity, and for the purposes of this Code of Conduct, such political activities are considered part of a Member's private and personal life.

² And in accordance with any supplementary guidance or protocols agreed by the authority from time to time.

³ This does not mean that Members are under any obligation to support or become involved in all requests for assistance from their constituents.

6. Leadership

You must promote and maintain high standards of conduct by supporting these principles by leadership and by example, and should act in a way that secures or preserves the confidence of others.

You must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees⁴.

Part Two – Registration and disclosure of interests

Registration of Interests

7. Within 28 days of your election or co-option, you must notify the Monitoring Officer of any 'disclosable pecuniary interests' which you have at that time⁵.
8. Where you are re-elected or re-appointed, notification is only required of any new disclosable pecuniary interests within 28 days of your election or co-option.
9. You must keep your Register of Interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or of you becoming aware of the change.
10. A pecuniary interest is a 'disclosable pecuniary interest' in relation to you if it is of a type described in Appendix 1, and either:
 - (a) it is an interest of yourself, or
 - (b) it is an interest of -
 - (i) your spouse or civil partner,
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you are civil partners, and you are aware that that other person has the interest.
11. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50⁶ which you receive in your role as a Leeds City Councillor⁷. You must inform the Monitoring Officer of any such gifts or hospitality within 28 days of receiving them so that the details can be entered into the Register of Interests.⁸

⁴ Members may express themselves robustly in representing their, or their constituents' views, although where a Member engages in a sustained or systematic challenge of an employee which is unfounded or in any other way unreasonable, such conduct would fall within the scope of this code. However an unintentional remark, made in isolation, is unlikely to amount to a failure to comply with the code of conduct.

⁵ The Monitoring Officer must enter these interests into the Register of Interests, which will be made available for public inspection and published on the Council's website

⁶ This financial limit will be maintained in line with the definition of a donation to be declared by election candidates during local authority elections in England and Wales (as set out in Schedule 2A of the Representation of the People Act 1983).

⁷ This does not include civic gifts or hospitality received by the Lord Mayor of Leeds whilst acting in this capacity. Civic gifts are to be recorded in a separate register maintained by the Lord Mayor's office.

⁸ These details will be removed from the register two calendar years after they were added by the Monitoring Officer.

Sensitive interests

12. If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the register that is made available for public inspection^{9 10}.

Disclosure of disclosable pecuniary interests at meetings

13. The following provisions apply if you are present at a meeting of the authority or of any committee¹¹, sub-committee, joint committee or joint sub-committee of the authority, and you are aware that you have a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting.
14. If the interest is not entered in the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
15. If the interest is not entered in the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
16. Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
17. You may not:
 - (a) participate, or participate further, in any discussion of the matter at the meeting,
 - (b) participate in any vote, or further vote, taken on the matter at the meeting (unless the Member has requested and been granted a relevant dispensation by the Standards and Conduct Committee), or
 - (c) remain in the room during the discussion or vote on the matter.
18. Where you have a disclosable pecuniary interest in a matter to be considered at a meeting, you may attend the meeting but only for the purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. Once you have finished, or the meeting decides you have finished, you must leave the room and may not remain in the room during the discussion or vote on the matter.

Disclosure of other interests at meetings

19. Where you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and identify

⁹ Instead the Register of Interests may state that the Member has an interest the detail of which are withheld under section 32(2) of the Localism Act 2011

¹⁰ If the Member is required to disclose such an interest in a meeting, the Member need not disclose the interest, but merely the fact that the Member has a disclosable pecuniary interest in the matter concerned.

¹¹ This includes the Executive Board and any committee of the executive.

any other significant interests which you feel should be declared in the public interest, such interests may be declared to the meeting.

20. In such circumstances you must consider whether your continued participation in the matter relating to your interest would be reasonable in the circumstances, particularly if the interest may give rise to a perception of a conflict of interests in the matter under discussion.

Allegations of a Failure to Comply with Code of Conduct

21. All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by full Council.

Appendix 1 - Definition of a 'disclosable pecuniary interest'¹²

Employment, office, trade, profession or vocation - Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period¹³ in respect of any expenses incurred by you in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts - Any contract which is made between the relevant person¹⁴ (or a body in which the relevant person has a beneficial interest¹⁵) and the relevant authority –

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land - Any beneficial interest in land¹⁶ which is within the area of the relevant authority.

Licences - Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies - Any tenancy where (to your knowledge) –

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities - Any beneficial interest in securities¹⁷ of a body where –

- (a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either –
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant

¹² As defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012/1464.

¹³ "Relevant period" means the period of 12 months ending with the day on which the Member completes their notification.

¹⁴ "Relevant person" refers to the Member and their spouse¹ or civil partner, or a person with whom the Member is living as husband or wife, or a person with whom the Member is living as if they were civil partners, so long as the Member is aware that that other person has the interest.

¹⁵ This means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest. The definition of "director" includes a member of a committee of management of an industrial and provident society.

¹⁶ "Land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.

¹⁷ "Securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct within the area of Leeds Metropolitan District Council.

Introduction

1. This procedure should be used to deal with complaints submitted under the Members' Code of Conduct adopted by Leeds City Council and the Parish and Town Councils in the Leeds area.
2. The Members' Code of Conduct applies to elected Members and voting co-opted members when they are acting in that capacity. Complaints which relate to a failure to comply with the rules about 'Disclosable Pecuniary Interests' should be directed to the West Yorkshire Police for their consideration. Complaints about a potential breach of the general obligations should be submitted to the Monitoring Officer for consideration.
3. The Monitoring Officer may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

Stage 1 - Initial assessment by the Monitoring Officer

4. Complaints must be submitted in writing, must provide substantiated information, and should outline what form of resolution the complainant is seeking. Otherwise the Monitoring Officer should ask the complainant to resubmit their complaint. Ideally the complainant will use the correct complaints form to submit their complaint, but other written complaints will be accepted so long as they contain the relevant information.
5. The Monitoring Officer will consider the complaint and make a decision as to whether it will be treated as a valid complaint or not.
6. The following types of complaint will not be considered as 'valid complaints' under this procedure:
 - a. Complaints which are submitted anonymously^{1 2};
 - b. Complaints which do not identify a subject Member;
 - c. Complaints which relate to a Member's personal or private life;
 - d. Complaints concerning a failure to respond to a request from a constituent or other individual;
 - e. Complaints which relate to the alleged actions of employees of the Council or non-voting co-optees;

¹ Complaints which contain a request for the complainant's identity to be withheld may be considered to be 'valid complaints', although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

² Anonymous complaints which reveal potential fraud or corruption will be referred to Internal Audit for consideration under the Council's adopted Whistle blowing Policy

- f. Complaints which relate to a decision of an employee or a Committee;
 - g. Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council;
 - h. Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now;
 - i. Complaints containing trivial allegations, or which appear to be simply malicious, politically motivated or tit-for-tat;
 - j. Complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action;
 - k. Complaints which relate to an alleged failure to comply with the rules regarding 'Disclosable Pecuniary Interests'³.
7. In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint. If the Monitoring Officer decides that the complaint is 'invalid', this notification is made for information only.
8. If the complaint relates to an employee or is a service related issue, the Monitoring Officer will refer the complaint to the relevant service in order for them to respond to the complainant directly.
9. In any case where the Monitoring Officer decides that the complaint is 'invalid', they will write to the complainant explaining why their complaint cannot be dealt with under this procedure. There is no appeal process for decisions taken by the Monitoring Officer at this stage.

Stage 2 - Informal resolution

10. If, following initial assessment, the Monitoring Officer decides that the complaint should be treated as a 'valid complaint' they will write to the complainant and explain that the matter is to be referred to the subject Member for them to seek to resolve the issue in accordance with this procedure. The complainant will also be provided with an outline of the procedure for dealing with complaints against Councillors.
11. At the same time the Monitoring Officer will refer the matter to the subject Member and the relevant Group Whip⁴ for their consideration. In this correspondence the Monitoring Officer will provide the subject Member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 28 days), and will provide the subject Member with the contact details for the Independent Person⁵.

³ Such complaints will be redirected to the West Yorkshire Police, subject to the complainant's agreement.

⁴ If the subject Member is the Group Whip, the complaint will be copied to his or her Group Leader. In the case of a Parish or Town Council without structured political groups, the Monitoring Officer could consider involving the Chairperson of the Council.

⁵ See Annex 1 for a summary of the role of the Independent Person.

12. Types of informal resolution might include:

- a. An explanation by the subject Member of the circumstances surrounding the complaint;
- b. An apology from the subject Member;
- c. An agreement from the subject Member to attend relevant training or to take part in a mentoring process;
- d. Offering to engage in a process of mediation or conciliation between the subject Member and the complainant; or
- e. Any other action capable of resolving the complaint.

13. Before deciding upon a course of action the subject Member may seek guidance from a Group Whip, the Independent Person, and/or the Monitoring Officer. It may also be advisable to seek advice from the complainant to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.

14. The Independent Person is available to the subject Member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing such guidance will not prevent the Independent Person from giving a view to the Standards and Conduct Committee about the complaint at a later stage.

15. At the end of the 28 day period the Monitoring Officer will, in consultation with the Chair of the Standards and Conduct Committee, seek to establish whether the subject Member (or Group Whip) has appropriately addressed matters which have been raised by the complainant.

16. Where the subject Member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject Member of this decision.

17. Where it has not been possible to appropriately address matters, the complaint will be referred to the Standards and Conduct Committee for consideration. The Monitoring Officer will notify both the complainant and the subject Member of this decision, and will provide the subject Member with information regarding the Council's insurance arrangements (and how legal representation may be accessed).

18. There will be no appeal process for decisions taken by the Monitoring Officer and the Chair of the Standards and Conduct Committee at this stage.

Stage 3 – Standards and Conduct Committee

19. The Monitoring Officer will prepare a report for consideration by the Standards and Conduct Committee. This report will include readily obtainable information (such as minutes of meetings or Clerk's notes), a summary of the complaint and the efforts made to resolve the matter informally.
20. The Monitoring Officer must arrange for a meeting of the Standards and Conduct Committee (or the relevant Sub-Committee) to be convened to consider the Monitoring Officer's report of the complaint. Wherever possible the meeting will take place within 28 days of the Monitoring Officer's report being finalised.
21. The Sub-Committee will be made up of three Members of the Standards and Conduct Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the meeting, but cannot be from the same political group as the subject Member.
22. If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Sub-Committee meeting. The Parish Member will not be entitled to vote at the meeting, but will be entitled to speak at the discretion of the Chair.
23. The following people will also be invited to attend the Sub-Committee meeting:
 - a. The complainant;
 - b. The subject Member;
 - c. The Group Whip (if relevant); and
 - d. The Independent Person.
24. The Monitoring Officer will also attend the meeting in order to present their report.
25. After initial consideration of the Monitoring Officer's report, the Sub-Committee will take statements from the following parties (either in person or in written form if the person is unable to attend the meeting):
 - a. The complainant; and
 - b. The subject Member.
26. The Sub-Committee may also ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.
27. Before reaching a final decision on the complaint, the Standards and Conduct Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.

28. If the Sub-Committee is unable to reach a conclusion on the complaint on the basis of the information before it, it may adjourn the meeting and request that the Monitoring Officer seeks the further information required. However, when doing so the Sub-Committee should consider whether the information will be readily available to the Monitoring Officer.
29. Once the Sub-Committee is satisfied with the information before it, it must decide the following issues:
- a. Whether the subject Member has failed to comply with the Members' Code of Conduct;
 - b. Whether further action is warranted; and
 - c. What form of action might be appropriate.
30. If the complaint relates to a Parish or Town Councillor the Sub-Committee will only make a decision regarding whether the subject Member has failed to comply with the relevant Members' Code of Conduct. This decision, and the reasons for it, will be communicated to the relevant Parish or Town Council in order for it to make a decision as to whether further action is warranted and what form of action would be appropriate.
31. In all other cases, if the Sub-Committee concludes that, on the balance of probabilities, the subject Member did not fail to comply with the Members' Code of Conduct, this will conclude the complaints process. In such cases no further action will be taken in respect of the complaint, although the Sub-Committee may still wish to consider making a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general. Such recommendations may include proposed changes to internal procedures and practices or training for Members in general.
32. If the Sub-Committee concludes that, on the balance of probabilities, the subject Member has failed to comply with the Members' Code of Conduct, the Sub-Committee must go on to consider whether action should be recommended in respect of the subject Member, and what form of action might be appropriate.
33. The recommendations available to the Sub-Committee are limited to:
- a. A formal letter to the subject Member from the Chair of the Standards and Conduct Committee;
 - b. Formal censure by a motion of full Council; or
 - c. Removal by the authority of the Member from a relevant Committee(s) subject to statutory and constitutional requirements.
34. The Sub-Committee may make a recommendation in relation to one or more of the above sanctions to full Council, the Group Whip or the Chair of the Standards and Conduct Committee. The Chair will confirm any such recommendations in writing within five working days of the Sub-Committee meeting.

35. The Sub-Committee may also make general recommendations to the authority with a view to promoting and maintaining high standards of conduct within the authority. As stated above, such recommendations may include proposed changes to internal procedures and practices or training for Members in general. The Monitoring Officer will be responsible for communicating such recommendations to the relevant Committee or officer for consideration.
36. Within five working days of the meeting the Chair of the Sub-Committee will write to the complainant and the subject Member explaining the final decision of the Sub-Committee and detailing any recommendations made.
37. There will be no right of appeal against a decision of the Sub-Committee.

ANNEX 1 - Role of the 'Independent Person'

Role of the Independent Person

The role of the independent person is set out in Section 28 of the Localism Act 2011.

As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one independent person.

The independent person's views **must** be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

The authority may also seek the independent person's views on an allegation that it has not decided to investigate. However, there is no requirement for the authority to do so, or to take those views into account.

Finally, a member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them.

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Standards and Conduct Committee

The Standards and Conduct Committee is authorised to discharge the following functions:

1. To promote and maintain high standards of conduct by members and co-opted members of the authority¹.
2. To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
3. To consider and determine written allegations that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or that a member or co-opted member of a parish council in the Leeds area has failed to comply with the parish council's code of conduct².
4. Following a determination of whether or not a member or co-opted member of the authority has failed to comply with the code of conduct, to consider whether or not action might be necessary, and to make recommendations³ on the form of action⁴.
5. To consider and determine written requests for dispensations⁵.
6. To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of employees of the authority⁶.

¹ In accordance with Section 27 of the Localism Act 2011.

² In accordance with Section 28(6), (7) and (9) of the Localism Act 2011.

³ Including to full Council, the Leader, the Chief Executive, or the relevant Group Whip.

⁴ In accordance with Section 28(11) of the Localism Act 2011.

⁵ In accordance with Section 33 of the Localism Act 2011.

⁶ It is not the function of the Committee to determine or become involved in individual employee conduct or disciplinary cases.

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Standards and Conduct Committee – Consideration Sub-Committee

The Consideration Sub-Committee of the Standards and Conduct Committee is authorised to discharge the following functions:

1. To consider and determine written allegations that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or that a member or co-opted member of a parish council in the Leeds area has failed to comply with the parish council's code of conduct¹.
2. Following a determination of whether or not a member or co-opted member of the authority has failed to comply with the code of conduct, to consider whether or not action might be necessary, and to make recommendations² on the form of action³.

¹ In accordance with Section 28(6), (7) and (9) of the Localism Act 2011.

² Including to full Council, the Leader, the Chief Executive, or the relevant Group Whip.

³ In accordance with Section 28(11) of the Localism Act 2011.

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Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 20th July 2012

Subject: Review of the local codes and protocols

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. Following the introduction of the new standards regime on 1st July 2012, the local codes and protocols within the Council's Constitution need to be urgently reviewed.
2. This report proposes amendments to some of these codes and protocols to bring them up to date and to ensure they are fit for purpose. The amended codes and protocols are appended to this report.
3. This report also proposes that all the codes and protocols are more thoroughly reviewed before the next Standards and Conduct Committee. In particular, that both the Codes of Practice are further considered by the Joints Plans Panel and the Licensing Committee, and the results of this review be reported back to the Standards and Conduct Committee at its next meeting.

Recommendations

4. The Standards and Conduct Committee is asked to consider whether each of the Codes of Practice and Protocols should be retained in the amended form presented in this report, and if so, whether the document(s):
 - Require further review; and
 - Should be considered, in any way, an extension to, or interpretation of, the adopted Members' Code of Conduct.

1 Purpose of this report

- 1.1 Following the introduction of the new standards regime on 1st July 2012, the local codes and protocols within the Council's Constitution need to be urgently reviewed.
- 1.2 This report proposes amendments to some of these codes and protocols to bring them up to date and to ensure they are fit for purpose. The amended codes and protocols are appended to this report.

2 Background information

- 2.1 The local codes and protocols which relate to the conduct of Members and standards matters are:
- The Protocol for Member/Officer Relations;
 - The Monitoring Officer Protocol;
 - The Code of Practice for the Determination of Planning Matters; and
 - The Code of Practice for the Determination of Licensing Matters.
- 2.2 These documents, which are contained in Council's Constitution, were introduced as part of the Council's ethical framework under the previous standards regime.

3 Main issues

- 3.1 The sections of the Localism Act 2011 which relate to standards came into force on 1st July 2012. As a consequence large elements of the codes and protocols referred to above, particularly those elements that deal with the issues of conflicts of interest and predetermination, are in need of update.
- 3.2 However, equally, the new code of Members' Conduct provides an opportunity for a fresh perspective to be brought to all conduct matters, particularly the value of the Codes and Protocols referred to above and their contribution to the governance and conduct framework of the council.

Amendments arising from the new standards arrangements

- 3.3 For ease of reference, the codes and protocols have been reviewed to remove any references to personal and prejudicial interests and to insert references to disclosable pecuniary interests. The new definition of predetermination has been included in the revised Codes of Practice, to reflect Chapter 6 of the Localism Act which came into force in January 2012.
- 3.4 The sections about monitoring the codes and protocols have been revised to reflect that it will not be necessary for the Standards and Conduct Committee to receive annual reports on compliance with the codes and protocols. Instead the Codes reflect that reports will be brought to the Committee as and when amendments are required.

- 3.5 In relation to the Monitoring Officer Protocol amendments have been made to paragraph 2.2.5 to reflect the changes in the procedure for handling complaints.
- 3.6 The above amendments will ensure that the local codes and protocols reflect the new standards provisions under the Localism Act 2011. The amended documents are attached as appendices 1 to 4 to this report. As the proposed changes are extensive, the final version of each document is presented in this agenda so that it is easier for Members to read.
- 3.7 However, Members are asked to consider whether each of the Codes of Practice/Protocols should be retained, and, if so, whether the document(s) should be, considered, in any way, an extension or interpretation of, the adopted Members Code of Conduct.
- 3.8 The Monitoring Officer is of the view that the Protocol for Member/Officer Relations may be of some value but that the existing document is not currently fit for purpose. The Protocol requires a substantial rewrite based around the principles of the Member / officer relationship.
- 3.9 If Members are of the view that any or all of the documents are required as part of the Council's ethical framework, then further work will be required to consider whether all the guidance contained within them is necessary and fit for purpose. Further work might also be required to clarify the extent to which the codes and protocols apply to Members and officers and how they should be enforced.
- 3.10 Members may also wish to consider whether, in the event of the Codes of Practice for Planning and Licensing matters not being retained as part of the conduct framework, whether the relevant committees be asked to consider the value of the documents in regulating each of the respective committees decision making processes.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 No consultation has taken place in relation to this review, as the amendments being made simply reflect the new legislation and the locally adopted Code of Conduct.
- 4.1.2 The Standards and Conduct Committee is asked to consider whether to undertake further consultation with the Joint Plans Panel and the Licensing Committee when a more thorough review of the Codes of Practice is conducted.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no issues for equality and diversity or cohesion and integration.

4.3 Council policies and City Priorities

- 4.3.1 Principle 3 of the Council's Code of Corporate Governance relates to good conduct and behaviour. Updating these codes and protocols supports this principle by making the Council's expectations clear.

4.4 Resources and value for money

4.4.1 There are no resource implications relating to this report.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The amendments to the codes and protocols proposed in this report will ensure that the Codes reflect the new definition of predetermination and the standards regime as set out in the Localism Act 2011.

4.6 Risk Management

4.6.1 If the codes and protocols are not updated they will not reflect the requirements of the new standards regime. There is consequently a risk that Members will continue to rely on the guidance within the codes and protocols and therefore find themselves in potential breach of the requirements of the new standards regime.

5 Conclusions

5.1 This report proposes amendments to some of the codes and protocols to bring them up to date and to ensure they are fit for purpose. The proposed amendments are appended to this report.

5.2 This report also asks Members to consider whether each of the Codes of Practice/Protocols should be retained, and, if so, whether the document(s) should be, considered, in any way, an extension or interpretation of, the adopted Members Code of Conduct. In particular, that both the Codes of Practice are further considered by the Joins Plans Panel and the Licensing Committee, and the results of this review be reported back to the Standards and Conduct Committee at its next meeting.

6 Recommendations

6.1 The Standards and Conduct Committee is asked to consider whether each of the Codes of Practice and Protocols should be retained in the amended form presented in this report, and, if so, whether the document(s):

- Require further review; and
- Should be considered, in any way, an extension or interpretation of, the adopted Members' Code of Conduct.

7 Background documents¹

7.1 The Localism Act 2011

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS

1.0 INTRODUCTION

1.1 **This code applies** to all licensing decisions including:

- Decisions of the Licensing Committee.
- Decisions of any Licensing Sub Committee.
- Delegated decisions within the terms of reference of the above bodies.

All decisions made by the above bodies will be referred to within this code as decisions of the licensing authority.

1.2 This code also applies at all times when Members are involved in the licensing process. This includes taking part in decision making meetings of the Council in exercising the functions of the licensing authority and on less formal occasions such as meetings with officers or the public and consultative meetings. It applies as equally to licensing enforcement matters, reviews, or site specific issues as it does to licensing applications.

1.3 This code of practice applies as follows:

- Sections 1-3 apply to all Members.
- Sections 4-12 apply particularly to Members of the Licensing Committee.
- Sections 13-14 apply to officers.
- Sections 15-17 deal with procedures, monitoring and review.

1.4 **The aim of this code** of good practice is to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

1.5 **If you have any doubts** about the application of this Code, you should seek early advice, preferably well before any meeting takes place from the Monitoring Officer.

2.0 RELATIONSHIP WITH THE MEMBERS' CODE OF CONDUCT

2.1 Leeds City Council's Members' Code of Conduct must be complied with throughout the decision making process.

2.1.1 **Do** apply the rules in the Members' Code of Conduct first and at all times.

2.1.2 **Do** then apply the rules of this Code which seek to explain and supplement the Members' Code of Conduct for the purposes of licensing. If you do not abide by this Code you may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision; and
- yourself at risk of a complaint being made to the Standards and Conduct Committee regarding your conduct.

3.0 LICENSING APPLICATIONS AND DISCLOSABLE PECUNIARY INTERESTS

- 3.1 It is your responsibility to declare any disclosable pecuniary interests you have in a matter at any relevant meeting. You should also withdraw from the room or chamber where the meeting is being held.
- 3.2 **Do not** participate or give the appearance of trying to participate in any part of the meeting which involves the matter in which you have a disclosable pecuniary interest. You may however make representations, answer questions on a matter or give evidence on a matter if the public also have the right to do so¹. This means that:
- You only have the same right as the public to make representations.
 - You will be brought into the meeting when the other parties are called in.
 - You will be subject to the same time limits as all other parties and have the same rights i.e. to make representations, give evidence and answer questions but not to cross examine other parties.
 - Once you have finished, or the meeting decides you have finished, you must leave the room immediately after making your representations, answering questions or giving evidence and must take no part in the decision making.
 - If the public have no right to make representations, answer questions on a matter or give evidence on a matter, then you must withdraw from the meeting room when the matter in which you have a disclosable pecuniary interest is discussed.
- 3.3 Where you have a disclosable pecuniary interest in a matter to be determined by a Licensing Sub Committee you should ensure that you have arranged for a substitute to attend the hearing in your place.
- 3.4 **Do not** get involved in the processing of the application.
- 3.5 **Do not** seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a Councillor.
- 3.6 **Do** be aware that, whilst you are not prevented from seeking to explain or justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, the Code places greater limitations on you than would apply to an ordinary member of the public and sensible steps must be taken to ensure openness and fairness in the decision making process. In particular you should:
- Notify the Monitoring Officer in writing of your own application (or that of a relative or employer where known) or where you are employed as an agent.
 - Consider whether it is advisable to employ an agent to act on your behalf in dealing with officers and any public speaking at a licensing hearing.

¹ Paragraph 18 of Leeds City Council Members' Code of Conduct.

4.0 BIAS AND PREDETERMINATION IN THE LICENSING PROCESS

- 4.1 Section 25(2) of the Localism Act 2011 sets out that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –
- (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
 - (b) the matter was relevant to the decision.
- 4.2 The above section was enacted to clarify that predetermination occurs where someone has a closed mind, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The section makes it clear that if a councillor has given a view on an issue, this does not show that the councillor has a closed mind on that issue, so that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it if it arises in an item of council business requiring a decision.
- 4.3 Having said this, the words ‘just because’ in Section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination so care still needs to be taken.
- 4.4 Given the requirement that Members of the Licensing Committee or Sub Committee should exercise an independent mind and decide proposals in accordance with the relevant licensing considerations, Members must not favour any person, company, group or locality or commit themselves to a particular point of view on a licensing application prior to its full consideration at the Licensing Committee or Sub Committee.
- 4.5 **Do not** make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the decision making meeting and of your hearing the officer’s presentation and the evidence and arguments on both sides.
- 4.6 **Do** be aware that you are likely to be biased or pre-determined where the Council is the landowner or applicant **if** you have been or are perceived as being, a chief advocate for the proposal. This will not necessarily arise from being a member of the proposing board or the Executive but through a significant personal involvement in preparing or advocating the proposal by which you may be perceived as being unable to act impartially or determine the proposal purely on its licensing merits and in the public interest.
- 4.7 **Do remember** that you are, of course, free to listen to a point of view about a licensing proposal, give procedural advice and agree to forward any comments, but should then refer the person to the appropriate licensing officer.
- 4.8 **Do not** use any political group meetings prior to the Licensing Committee or Sub Committee meeting to determine how you or other Councillors should vote. There

is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available, but decisions can only be taken after full consideration of the Licensing Officer's report and documents and information considered at the Hearing.

5.0 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

5.1 This section concerns the position of Members of Leeds City Council who are also Parish Councillors or members of an outside body.

5.2 **Do** consider yourself able to take part in a licensing debate and vote on a proposal at a meeting of the Parish Council or outside body is a consultee provided:

- You make it clear that that you are keeping an open mind and may vote differently at the licensing hearing when full details are available.
- You do not commit yourself so far to a particular point of view that you cannot be considered as open to persuasion at a licensing hearing when the proposal is decided.

6.0 AREA COMMITTEES

6.1 As all Leeds City Councillors are members of an Area Committee, this code recognises the "Dual Hatted" roles which members of the Licensing Committee and Area Committees must consider. There is a possibility that you may be considered as predetermining a matter if you have spoken in support or against it or are closely associated with such a decision taken at the Area Committee.

6.2 **Do** consider whether it is appropriate for you to speak at the Area Committee if you wish to speak also on the application at a licensing hearing.

6.3 **Do** consider, whatever your own views, whether as Chair of the Area Committee or a member of any Panel, Committee or Sub Committee, you would be so closely associated with that decision that it would be unreasonable to expect you to disregard it.

6.4 **Do** remember that you can speak and vote on an application which is before the Area Committee for consultation so long as you make it clear that you have only formed a provisional view and will still approach the issue with an open mind and be open to persuasion when the matter is discussed at the licensing hearing.

6.5 **Do** remember that it is not always sufficient to make such a statement if it is not demonstrably genuine. The more controversial the application and or the more vehemently you have supported or opposed it, the more difficult it will be to show that you have not predetermined the matter and therefore render the decision susceptible to challenge. In those circumstances you should not attend the hearing for that application.

7.0 SPOUSE/PARTNER COUNCILLORS

- 7.1 There may be occasions when the spouse or partner of a Member, usually a member for the same Ward, is also a Member of the Licensing Committee or Sub Committee. That Member might quite properly refer constituents who wish to make representations to his or her spouse or partner rather than be directly lobbied. Generally the fact that the spouse or partner Councillor has been approached will not affect your ability to speak and vote at a licensing hearing.
- 7.2 **Be** aware that Section 30(3) of the Localism Act 2011 defines that a Member has a disclosable pecuniary interest in any matter, if it is the Members' own interest, or if it is an interest of their spouse or partner, a person with whom the Member is living as husband and wife, or a person with whom the Member is living as if they were civil partners, and the Member is aware that that other person has the interest.
- 7.3 **Consider** if your spouse or partner is so closely involved with the support for, or opposition to, an application that a member of the public might reasonably think that the involvement is such that you must be biased or have predetermined the application.

8.0 EXECUTIVE BOARD MEMBERS

- 8.1 There is no Constitutional or legal reason why an Executive Board Member should not also be a Member of the Licensing Committee and take part in the decision making processes which are not part of the executive function.
- 8.2 **Be** aware that you should not speak or vote on any matter which you have discussed at Executive Board unless you have demonstrated there and can do so at the licensing hearing that you have not predetermined the application.
- 8.3 **Do not** take part in any meeting of the Licensing Committee or Sub Committee on a matter in which you may have been seen as advocating a proposal as an Executive or Deputy Executive Member.

9.0 CONTACT WITH APPLICANTS AND OBJECTORS

- 9.1 In order to maintain impartiality, it is preferable that Members are not involved in pre-application discussions but there will be occasions when this can be unavoidable. The following guidance is given.
- **Do not** agree to any formal meeting with applicants, or groups of objectors where you can avoid it. Where you feel that a formal meeting would be helpful in clarifying the issues, you should not arrange it yourself, but request the Licensing Officer to do so. The officer will then ensure that those present are aware that any discussion will not bind the Council and maintain a written file record of the meeting.
 - **Do** refer those who approach you for advice to officers.
 - **Do** follow the rules on lobbying.

- **Do** report any significant contact with the applicant or other parties to the Monitoring Officer explaining the nature and purpose of the contacts and your involvement and ensure that this is recorded on the licensing file.
- **Do not** attend a presentation by an applicant unless an officer is present and/or it has been arranged by an officer.
- **Do** ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other members might vote.
- **Do** make it clear that the presentation is not part of the formal decision making process and any view is both personal and provisional since not all relevant information will be to hand and the views of interested parties will not have been obtained.

10.0 MEMBERSHIP OF A LOBBY GROUP

- 10.1 Lobbying by Councillors is a legitimate activity but in the case of Members of the Licensing Committee or Sub Committee significant care needs to be taken to avoid any challenge of bias or predetermination or an allegation of bringing the Council into disrepute.
- 10.2 **You may** take part in a matter than involves issues upon which your lobby group has simply campaigned as long as your involvement has not resulted in you being biased and/or predetermining the matter.
- 10.3 **Do** weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you are biased or have pre-determined a matter. The factors are:
- the nature of the matter to be discussed
 - the nature of your involvement with the lobby group
 - the publicly expressed views of the lobby group
 - what you have said or done in relation to the particular issue
- 10.4 **Do not** lead, be part of the management of, or represent an organisation whose primary purpose is to promote or oppose licensing proposals. If you do, you may have fettered your discretion (be biased/pre-determined) and have to withdraw.
- 10.5 **Do not** become a member of an organisation whose primary purpose is to promote or oppose specific licensing proposals or those within a limited geographical area as you may be perceived as having fettered your discretion (be biased/pre-determined).
- 10.6 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular licensing proposals such as a local Civic

Code of Practice for Determining Licensing Matters

Society but where that organisation has made representations on a particular proposal, you should make it clear to both the organisation and the Committee that you have not made up your mind on each separate proposal

- 10.7 **Do** remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as being the Chairperson or a member of the Board or Committee, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may consider that you are biased and/or pre-determined and should withdraw from the meeting.
- 10.8 **Do not** excessively lobby fellow members regarding your concerns or views or attempt to persuade them that they should decide how to vote in advance of the hearing at which the decision is to be made. It is difficult to define 'excessively' but you need to consider whether a member of the public, knowing the facts would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.
- 10.9 **Do not** publicly support a particular outcome on a proposal or actively campaign for it if you wish to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the application in accordance with the law.

11.0 SITE VISITS

- 11.1 Site Visits can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to a hearing. Due to the tight timescales involved in licensing decisions, site visits must be viewed as an exception rather than the rule.
- 11.2 When undertaking a site visit Members should have regard to the following paragraphs of the Code of Practice for Determining Licensing Matters:
- ✓ Paragraph 4 - Bias and Predetermination in the Licensing Process.
 - ✓ Paragraph 9 - Contact with Applicants and Objectors.

11.3 THIS SECTION APPLIES TO MEMBERS REQUESTS FOR A SITE VISIT

- 11.3.1 If a Member feels, on receipt of the report on an application that a site visit would be beneficial, s/he should first discuss their concerns with the Principal Licensing or Gambling Officer. Officers have powers to request additional information from parties, which can then be discussed at the hearing. This information may resolve the issues without the need for a site visit. If a Member still feels that a site visit is

Code of Practice for Determining Licensing Matters

necessary then, in the interest of fairness, it is preferable that concerns should be expressed at the scheduled hearing since Members may find that the applicant, interested parties or responsible authorities can provide verbal information to the satisfaction of the Members present.

- 11.3.2 Views of the parties present must be canvassed and considered before a site visit is agreed since that is likely to result in a delay to the decision making.
- 11.3.3 In the case of a Sub Committee hearing, three Members or a 2:1 majority must be in favour of a site visit for arrangements to be made. The same three Members will be expected to undertake the requested site visit and attend the hearing for the application, which will be re-convened at a later date
- 11.3.4 In the case of a meeting of the Licensing Committee , a majority of the Members present must be in favour of a site visit
- 11.3.5 The same Members will be expected to undertake the requested site visit and be able to attend the re-convened meeting which will consider the application subsequent to the site visit
- 11.3.6 **DO** raise the need for a site visit at a hearing and be prepared to give reasons why it is of real benefit. The reason will be recorded in the Minutes.
- 11.3.7 **DO NOT** request a site visit unless there is a real benefit from viewing the site. This might arise where:-
- Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection.
 - There are significant policy or precedent implications and specific site factors need to be carefully addressed.
 - Relevant factors cannot be fully ascertained from any supporting information or the plans submitted to the Licensing Officer and available at the hearing, to Members satisfaction.

11.4 THIS SECTION APPLIES TO SITE VISITS AS PROPOSED BY OFFICERS

- 11.4.1 The Principal Licensing or Gambling Officer may suggest the Committee or a Sub Committee undertake a Site Visit without prior discussion at a hearing, where in the professional opinion of the Officer there is a real benefit from viewing the site.
- 11.4.2 In such cases, officers will approach Members seeking a date for the site visit and hearing – usually in the form of an e-mail in the first instance.
- 11.4.3 The e-mail should set out the proposal for a site visit, the reasons behind the request; the projected benefit for Members; the address of the premise; the type of application and set out the arrangements for the day.

Code of Practice for Determining Licensing Matters

11.4.4 In such cases it is usual for the site visit to commence at 9.30 am (departing from the Civic Hall) and for the formal meeting to commence at 11.00 am in the Civic Hall to determine the application. As such it is anticipated that hearings will not conclude until the afternoon.

11.4.5 Having done this, officers will seek confirmation from the Members able to attend that they are happy to undertake the propose site visit.

11.5 ON THE SITE VISIT

11.5.1 **DO** ensure that any information gained from the site visit is reported back at the subsequent hearing.

11.5.2 **DO** ensure that you treat the site visit as an opportunity to seek information and to observe the site. It is not to be used to determine a matter prior to the hearing.

11.5.3 **DO** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

11.5.4 **DO** be prepared to listen to and ask questions of fact from the Applicant or other parties.

11.5.5 **DO** be aware that Officers will make all parties aware of the site visit. All parties may attend subject to being granted access by the owner (see below). If only one party is present be particularly careful only to obtain information and ensure that that information is repeated at the public meeting where the other parties have a right to comment on it.

11.5.6 **DO** be aware that access to the site is at the discretion of the owner. The owner can legitimately refuse access to objectors and even Members. If access is to be refused consider whether it is still appropriate to undertake the visit.

11.5.7 **DO NOT** be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind.

Note that the decision can only be made at the Licensing Hearing and you should make this clear to any applicant or other party.

11.5.8 **DO** note comments of the applicant or other parties which are made solely for the purpose of making members aware of any specific local circumstances and issues relevant to the application site.

11.5.9 **DO NOT** express opinions or views to anyone which can suggest bias or predetermination. As indicated above, you should make it clear that formal consideration of the proposal will take place in public at the subsequent hearing/meeting.

11.5.10 **DO NOT** enter a site which is subject to an application otherwise than on a formal site visit although this does not prevent you from viewing the site from the highway or other publicly accessible area.

12.0 TRAINING

- 12.1 Members making licensing decisions must attend two training sessions each and every year:
- a Licensing Update session, to receive guidance in relation to regulations and procedures; and
 - a Governance and Conduct session, for training on disclosable pecuniary interests and the Members' Code of Conduct.
- 12.2 Failure to undertake either or both sessions will result in the Elected Member being unable to sit on the Licensing Committee or Sub Committee. Therefore, **do not** participate in decision making on licensing matters if you have not undertaken mandatory training.
- 12.3 **Do** try to attend any other specialised training session provided, since these will be designed to extend your knowledge of licensing law, regulations, procedures and Policies beyond the minimum required and assist you in carrying out your role properly and effectively.
- 12.4 **Do** revisit a sample of implemented licensing decisions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public, confidence in the licensing system, and can help with reviews of planning policies.

13.0 OFFICERS

- 13.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers are employed by the Council and not by individual Councillors and instructions can only be given through a decision of the Council, the Executive or a Panel or Committee. A successful relationship can only be based on mutual respect, trust, courtesy and understanding of each others positions.
- 13.2 The role of the Legal officer is to assist the committee in gathering evidence and understanding all relevant issues in order for Members to make a decision, and to advise on the sub committees' legal duties under the relevant legislation and on the admissibility of evidence.
- 13.3 All legal advice should be given or repeated in open session for all parties to be made aware of.
- 13.4 The role of the Governance Officer is to facilitate the smooth running of the hearing; advise on the Rules of Procedure and Regulations relating to hearings; make notes of the proceedings and reasons for granting or refusing applications; and ensure that decision letters are sent to all parties as soon as possible after the hearing.

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- 13.5 The role of the Licensing Officer attending the hearing is neutral. They will make no recommendations to the Committee and attend hearings only to provide a summary report of the application, giving details of the representations received and any relevant legislative or policy considerations. However there is a separate but distinct officer role which is exercised by Liaison and Enforcement Officers from Entertainment Licensing who may make representations on applications or seek reviews. The roles of these officers and the Licensing Officer processing applications and hearing reports are (and must remain) separate.
- 13.6 **Do not** put pressure on Licensing officers to put forward a particular recommendation.
- 13.7 **Do** recognise that officers are part of a management structure and only discuss an application, outside of any arranged meeting with those officers who are authorised to deal with the application at Member level.
- 13.8 **Do** recognise and respect that officers involved in the processing and determination of licensing application must act in accordance with the Council's Employee Code of Conduct. As a result, officers reports will be presented on the basis of their overriding obligation of professional independence.

14.0 RELATIONSHIP WITH THE EMPLOYEE CODE OF CONDUCT

- 14.1 The Council has an approved Employee Code of Conduct. That Code applies at all times when officers are involved in the licensing process. This includes decision making by officers under delegated powers and attendance at meetings whether those are formal decision making meetings or informal meetings with members or the public.
- 14.2 Officers must apply the rules in the Employee Code of Conduct at all times. If they do not they may put the Council at risk of proceedings on the legality of any related decision, and may put themselves at risk of disciplinary action.
- 14.3 Generally licensing officers have little discretion in making licensing decisions. For example, they may only grant licences where there are no objections. However there may be situations where they are called upon to exercise discretion such as deciding whether an objection is relevant. Other officers such as those employed by Environmental Health or Development have discretion on whether to object. Legal officers and committee clerks remain in the room with Members when decisions are made.
- 14.4 In all cases officers must avoid any improper conduct or occasion for suspicion of the appearance of improper conduct and should:-
- Ensure that they have given notice of any financial interest in any contract which has been or is proposed to be entered into by the Council.
 - Not accept gifts, entertainment, hospitality or any benefits in kind as set out in the Employee Code of Conduct.

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- Declare to their Director by completing the Register of Interests Form any personal interests which may conflict with licensing applications such as:
 - § any involvement with an outside organisation which has an interest in any licensing application;
 - § any financial interest in any licensing application; and
 - § any other interest where others may think that a conflict of interest may arise. Examples of such situations include where the officer lives adjacent to any licensed premises or visits the premises in a personal capacity on a regular basis.

14.5 Officers should also consider whether their spouse, partner or close relative has a financial or other interest in a licensing application which may give rise to the suspicion of the appearance of improper conduct and where the officer may therefore need to declare an interest.

14.6 Where an officer has declared an interest he or she should not participate in the processing of a licensing application but should instead refer the matter to his or her Manager who will arrange for another officer to discharge the duties.

15.0 PROCEDURES AT LICENSING HEARINGS

15.1 The Licensing Committee and Sub Committee Procedure Rules (Part 4(n) of the Constitution), set out the procedure for hearings before the Licensing Committee and Sub Committees.

16.0 MONITORING AND REVIEW

16.1 The Monitoring Officer will report to the Standards and Conduct Committee regarding any proposals for amendment to this code of practice following consultation with the Licensing Committee.

16.2 The Monitoring Officer shall monitor the following, and will report annually to the Corporate Governance and Audit Committee in relation to these matters:-

- the number of appeals upheld;
- any external inspection reports in respect of relevant issues; and
- any ombudsman complaints or reports in respect of relevant issues.

17.0 BREACHES OF THE CODE OF PRACTICE

17.1 In relation to Leeds City Councillors, failure to comply with the Members' Code of Conduct may lead to a complaint to the Standards and Conduct Committee, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Member committing a criminal offence.

17.2 Failure to comply with this code of practice may lead to a finding of maladministration by the Ombudsman or could lead to a decision being challenged in the courts.

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- 17.3 Allegations of a breach of this code of practice by Officers will be referred to the relevant Director for consideration under the Council's Disciplinary Procedure..

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CODE OF PRACTICE FOR THE DETERMINATION OF PLANNING MATTERS

1.0 INTRODUCTION

- 1.1 **The aim of this code of good practice is** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.2 **The key purpose of Planning** is to control development in the public interest.
- 1.3 **Your role as a Member of the Planning Authority** is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 1.4 **The Planning Code applies** at all times when Members are involved in the planning process. This includes taking part in decision making meetings of the Council in exercising the functions of the Planning Authority and on less formal occasions such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific issues as it does to planning applications.
- 1.5 **If you have any doubts** about the application of this Planning Code, you should seek early advice, preferably well before any meeting takes place from the Chief Planning Officer and/or the Monitoring Officer.

2.0 RELATIONSHIP WITH THE MEMBERS' CODE OF CONDUCT

- 2.1 Leeds City Council's Members' Code of Conduct must be complied with throughout the decision making process.
 - **Do** apply the rules in the Members' Code of Conduct first and at all times.
 - **Do** then apply the rules of this Planning Code which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control.
- 2.2 If you do not abide by this Planning Code you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of a complaint being made to the Standards and Conduct Committee regarding your conduct.

3.0 DEVELOPMENT PROPOSALS AND DISCLOSABLE PECUNIARY INTERESTS

- 3.1 It is your responsibility to declare any disclosable pecuniary interest you have in a matter at any relevant meeting.

3.2 Do then act accordingly:

- **Do not** participate or give the appearance of trying to participate in the making of any decision on the matter by the planning authority. You must withdraw from the meeting room when the matter is discussed (however please see paragraph 15 below for your right to attend and make representations).
- **Do not** try to represent ward or Area Committee views but get another Member to do so instead.
- **Do not** get involved in the processing of the application.
- **Do not** seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a councillor.
- **Do** be aware that, whilst you are not prevented from seeking to explain or justify a proposal in which you have a disclosable pecuniary interest to an appropriate officer, this code places greater limitations on you than would apply to an ordinary member of the public and sensible steps must be taken to ensure openness and fairness in the decision making process. In particular you should:
 - Notify the Monitoring Officer in writing of your own application (or that of a relative or employer where known) or where you are employed as an agent.
 - Note that the proposal will always be reported to Panel for decision and not dealt with by officers under the scheme of delegation.
 - Consider whether it is advisable to employ an agent to act on your behalf in dealing with officers and any public speaking at Panel.
 - Note that you have a right to make written representations to officers about the proposal and may address the Panel pursuant to the Public Speaking Protocol subject to certain additional restrictions (see paragraph 15 below for more detailed advice on this point).

4.0 BIAS AND PREDETERMINATION IN THE PLANNING PROCESS

4.1 Section 25(2) of the Localism Act 2011 sets out that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –

- (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
- (b) the matter was relevant to the decision.

4.2 The above section was enacted to clarify that predetermination occurs where someone has a closed mind, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The section makes it clear that if a councillor has given a view on an issue, this does not show that the

councillor has a closed mind on that issue, so that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it if it arises in an item of council business requiring a decision.

- 4.3 Having said this, the words 'just because' in Section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination so care still needs to be taken.
- 4.4 Given the requirement that Members of the Plans Panel should exercise an independent mind and decide proposals in accordance with the relevant planning considerations, Members must not favour any person, company, group or locality or commit themselves to a particular point of view on a planning application prior to its full consideration at the Council's Plans Panel.
- **Do not** make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the decision making meeting and of your hearing the officer's presentation and the evidence and arguments on both sides.
 - **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant if you have been or are perceived as being, a chief advocate for the proposal. This will not necessarily arise from being a member of the proposing board or the Executive but through a significant personal involvement in preparing or advocating the proposal by which you may be perceived as being unable to act impartially or determine the proposal purely on its planning merits and in the public interest
 - **Do remember** that you are, of course, free to listen to a point of view about a planning proposal, give procedural advice and agree to forward any comments, but should then refer the person to the appropriate planning officer.
 - **Do not** use any political group meetings prior to the Panel meeting to determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but decisions can only be taken after full consideration of the Chief Planning Officer's report and information and consideration at the Plans Panel.

5.0 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

- 5.1 This section concerns the position of Members of Leeds City Council who are also parish councillors or members of an outside body.
- **Do** consider yourself able to take part in debate and vote on a proposal at a meeting of the Parish Council or outside body where the Parish Council or outside body is a consultee provided:

Code of Practice for the Determination of Planning Matters

- You make it clear that that you are keeping an open mind and may vote differently at the Plans Panel when full details are available.
- You do not commit yourself so far to a particular point of view that you cannot be considered as open to persuasion at Plans Panel when the proposal is decided.
- **If** you cannot comply with the above criteria, or may be perceived as not complying, you should not take part in the decision making process at the Plans Panel.

6.0 AREA COMMITTEES

6.1 As all Leeds City Councillors are members of an Area Committee, this code recognises the “Dual Hatted” roles which members of the Plans Panel and of Area Committees must consider. There is a possibility that you may be considered as predetermining a matter if you have spoken in support or against it or are closely associated with such a decision taken at the Area Committee. If you are unsure, you should take advice from the Monitoring Officer or the Chief Planning Officer.

- **Do** consider whether it is appropriate for you to speak at the Area Committee if you wish to speak also on the application at Plans Panel.
- **Do** consider, whatever your own views, whether as Chair of the Area Committee or a member of any Plans Group, you would be so closely associated with that decision that it would be unreasonable to expect you to disregard it.
- **Do** remember that you can speak and vote on an application which is before the Area Committee for consultation so long as you make it clear that you have only formed a provisional view and will still approach the issue with an open mind and be open to persuasion when the matter is discussed at Plans Panel.
- **Do** remember that it is not always sufficient to make such a statement if it is not demonstrably genuine. The more controversial the application and or the more vehemently you have supported or opposed it, the more difficult it will be to show that you have not predetermined the matter and therefore render the decision susceptible to challenge. In those circumstances you should not attend the Plans Panel for that application.

7.0 SPOUSE/PARTNER COUNCILLORS

7.1 There are occasions when the spouse or partner of a member, usually a member for the same Ward or planning area, is also a Member of the Plans Panel. That Member might quite properly refer constituents who wish to make representations to his or her spouse or partner rather than be directly lobbied. Generally the fact that the spouse or partner Councillor has been approached will not affect your ability to speak and vote at Plans Panel.

7.2 **Be** aware that Section 30(3) of the Localism Act 2011 defines that a Member has a disclosable pecuniary interest in any matter, if it is the Members’ own interest, or if it

is an interest of their spouse or partner, a person with whom the Member is living as husband and wife, or a person with whom the Member is living as if they were civil partners, and the Member is aware that that other person has the interest.

- 7.3 **Consider** if your spouse or partner is so closely involved with the support for, or opposition to, an application that a member of the public might reasonably think that the involvement is such that you must be biased or have predetermined the application.

8.0 EXECUTIVE BOARD MEMBERS

- 8.1 There is no Constitutional or legal reason why an Executive Board member should not also be a member of the Plans Panel and take part in the decision making processes which are not part of the executive function.

- **Be** aware that you should not speak or vote on any matter which you have discussed at Executive Board unless you have demonstrated there and can do so at Plans Panel that you have not predetermined the application.
- **Do not** take part in any meeting of the Plans Panel on a matter in which you may have been seen as advocating a proposal as an Executive or Deputy Executive Member.

9.0 PANEL MEMBERS CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

- 9.1 It is recognised that pre-application discussions can be of great benefit to the planning process provided that they take place within clear parameters and governance arrangements. [A protocol for pre-application discussions with local communities and Ward Members has been produced which provides a framework for working transparently, within clear guidelines at the pre-application stage of a planning proposal.](#)

- **Do not** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be helpful in clarifying the issues, you should not arrange it yourself, but request the Chief Planning Officer to do so. The officer will then ensure that those present are aware that any discussion will not bind the Council and maintain a written file record of the meeting.
- **Do** refer those who approach you for planning, technical or procedural advice to officers.
- **Do** follow the rules on lobbying.
- **Do** report any significant contact with the applicant or other parties to the Chief Planning Officer explaining the nature and purpose of the contacts and your involvement and ensure that this is recorded on the planning file.

- **Do not** attend a planning presentation by an applicant or developer unless an officer is present and/or it has been arranged by an officer.
- **Do** ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other members might vote.
- **Do** make it clear that the presentation is not part of the formal decision making process and any view is both personal and provisional since not all relevant information will be to hand and the views of interested parties will not have been obtained.

10.0 MEMBERSHIP OF A LOBBY GROUP

- 10.1 Lobbying by Councillors is a legitimate activity but in the case of members of the Plans Panel significant care needs to be taken to avoid any challenge of bias or predetermination or an allegation of bringing the Council into disrepute.
- 10.2 Do note that it can lead to allegations of bias or predetermination and in those circumstances you must withdraw from the meeting.
- 10.3 Do weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors are:
- the nature of the matter to be discussed.
 - the nature of your involvement with the lobby group.
 - the publicly expressed views of the lobby group.
 - what you have said or done in relation to the particular issue.
- 10.4 **Do not** lead, be part of the management of, or represent an organisation whose primary purpose is to promote or oppose planning proposals. If you do, you may have fettered your discretion and have to withdraw.
- 10.5 **Do not** become a member of an organisation whose primary purpose is to promote or oppose specific planning proposals or those within a limited geographical area as you may be perceived as having fettered your discretion.
- 10.6 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals such as the Victorian Society, the CPRE or a local Civic Trust but where that organisation has made representations on a particular proposal, you should make it clear to both the organisation and the Panel that you have not made up your mind on each separate proposal.
- 10.7 **Do** remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as its Chairperson or a member of the Board or Committee, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you

may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.

- 10.8 **Do not** excessively lobby fellow members regarding your concerns or views or attempt to persuade them that they should decide how to vote in advance of the Panel meeting at which the decision is to be made. It is difficult to define “excessively” but you need to consider whether a member of the public, knowing the facts, would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.
- 10.9 **Do not** publicly support a particular outcome on a proposal within your Ward or actively campaign for it if you wish to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the application in accordance with the law.

11.0 ATTENDANCE AT PLANS PANEL AND SITE VISITS

- 11.1 Planning applications may in some cases come before Plans Panels on more than one occasion. For example, where members decide to defer an application for a site visit, or further information or, particularly with larger schemes where a position statement or issues paper are presented to the Plans Panel in order to inform the Panel and engage with members at key stages in the process.
- 11.2 It is important to ensure that members taking planning decisions are in possession of all the facts, including matters that may have been pointed out or come to light during a site visit by Plans Panel, matters that may have been raised during public speaking and matters that may have been discussed and considered by Plans Panel on earlier occasions. Attendance of members on all occasions during the application phase i.e. once the application has been submitted, will not only demonstrate that members are fully informed but will also ensure that high quality consistent and sound decisions are made, and that the risks of legal challenge are minimised.
- 11.3 **DO** attend all Plans Panel meetings and formal site visits of the Plans Panel during the application phase¹ if you wish to take part in the decision making process. The expectation is that all Plans Panel Members will attend all formal site visits and a record of attendance will be maintained and monitored.
- 11.4 If you have not attended on each occasion during the application phase and want to vote and take part in the decision on an application, you must carefully consider

¹ For these purposes, the application phase does not include the pre-application stages or workshops, but following the submission of a planning application will include each of the occasions when an application comes before Panel not just for a decision but also to include presentations, position statements, issues papers and formal site visits. For the avoidance of doubt outline applications and detailed or reserved matters applications, or a new application for an amended scheme are distinct and separate applications and attendance is not required across both or all of these.

whether or not you are fully appraised of all the facts and relevant information necessary to properly reach a decision. This may include factors such as matters which have been pointed out or come to light during a site visit by the Plans Panel, matters that have been raised during public speaking and matters that may have been discussed and considered by Plans Panel on earlier occasions. You should only take part in the decision making process if you are satisfied that you can reasonably and properly do so in all the circumstances. If you are unsure, you should take advice from the Chief Planning Officer and the Monitoring Officer.

12.0 SITE VISITS

12.1 Site Visits can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to the meeting of the Plans Panel. It should be noted that this Section applies to Members requests for a Site Visit and that the Chief Planning Officer may arrange Site Visits without prior discussion at the Plans Panel where, in his/her professional opinion, there is a real benefit from viewing the site.

- **Do not** request a site visit unless there is a real benefit from viewing the site. This might arise where:-
 - Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - There are significant policy or precedent implications and specific site factors need to be carefully addressed or
 - Details of the proposed development cannot be ascertained from plans and any supporting information to members satisfaction at the Plans Panel or
 - Where design considerations are of the highest importance particularly in relation to the surrounding locality.
- **Do** raise the need for a site visit at Plans Panel if the Agenda has been published and be prepared to give reasons why it is of real benefit. The name of the member requesting it and the reasons that it is agreed will be recorded in the Minutes.
- In considering whether a site visit is appropriate the Panel will take into account whether a site visit has been made to the property within the last 12 months.
- **Do** try to attend all site visits organised by the Council.
- **Do** ensure that any information which you gained from the site visit is reported back to the Panel.

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- **Do** ensure that you treat the site visit as an opportunity to seek information and to observe the site. It is not to be used to determine a matter prior to the meeting of the Plans Panel.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Do** be prepared to listen to and ask questions of fact from the Applicant or other parties but do not be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind . The decision can only be made at the Plans Panel and you should make this clear to any applicant or other party and suggest that they make written representations or use of the Public Speaking arrangements and direct them to, or inform, the officer present.
- **Do** note comments of Ward members or the Chair of the Area Committee which are made solely for the purpose of making members aware of any specific local circumstances and issues relevant to the proposal.
- **Do not** express opinions or views to anyone which can suggest bias or pre-determination. As indicated above, you should make it clear that formal consideration of the proposal will take place in public at the next meeting of the Plans Panel.
- **Do not** enter a site which is subject to a proposal otherwise than on a formal site visit although this does not prevent you from viewing the site from the highway or other publicly accessible area.

13.0 OFFICERS

13.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Instructions to officers can only be given through a decision of the Council, the Executive, Panel or under delegated powers and not by individual members acting outside those powers.

- **Do not** put pressure on officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the Chief Planning Officer which may be incorporated in any Panel report.
- **Do** recognise that officers are part of a management structure and only discuss a proposal, in accordance with any guidance provided by the Chief Planning Officer and with those officers who are authorised to deal with the proposals at Member level.
- **Do** be aware of the Protocols on Member/Officer Relations and the Roles of Members and Officers in Decision Making as set out in Part 5 of the Constitution.

- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Employee Code of Conduct and their professional codes of conduct, primarily the RAPT Code of Professional Conduct. As a result, planning officers views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence which may, on occasions, be at odds with the views, opinions or decisions of the Panel or its Members.

14.0 MEETINGS OF THE PLANS PANEL

- 14.1 A clear distinction has to be drawn between a Member and an Officer attending a Public Meeting and their roles when they attend meetings of the Plans Panel.
- 14.2 When a planning application has been deferred following a resolution not to accept officer's recommendation to refuse the application, the Chair shall put to the meeting a proposed statement of why the Chief Planning Officer's recommendation for refusal is not considered acceptable to the Panel, which, when agreed by the Panel, will be formally recorded in the Minutes.
- 14.3 When a planning application has been deferred following a resolution referred to in Paragraph 14.2 above, then at the subsequent meeting, the Chief Planning Officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Panel for granting permission. If the Plans Panel is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the Minutes of the meeting.
- 14.4 When a planning application has been deferred following a resolution not to accept the Chief Planning Officer's recommendation to grant the application, the Chair shall put to the meeting the proposed statement of the reasons for proposing refusal which, when agreed by the Panel, will be formally recorded in the minutes.
- 14.5 When a planning application has been deferred following a resolution referred to in Paragraph 14.4 above, then at the subsequent meeting the Chief Planning Officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Panel for refusing permission. If the Plans Panel is still of the same view, then it shall again consider its reasons for refusing permission, and a summary of the planning reasons shall then be formally recorded in the minutes of the meeting.
- 14.6 If the Plans Panel makes a decision contrary to the Chief Planning Officer's recommendation, the officer should be given an opportunity to explain the implications of the contrary decision. The Courts have expressed the view that reasons for the contrary decision should be clear and convincing.
- 14.7 A senior legal officer should always attend meetings of the Plans Panel to ensure the probity and propriety of the planning and decision-making processes.

- **Do** ensure that if you request a proposal to go before the Panel rather than be dealt with under officer delegation, your reasons are recorded and repeated in the Panel report.
- **Do** come to the meeting with an open mind and demonstrate that you are open-minded. An Ombudsman case concerning Macclesfield Borough Council found maladministration where the Ombudsman was persuaded that a Councillor, because of his publicly stated opposition to a proposal had entered the planning meeting with his mind already made up even though she accepted that he had put forward sound planning reasons for the rejection of the application.
- **Do** comply with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the development plan unless material circumstances determine otherwise.
- **Do** come to your decision only after due consideration of all the information reasonably required upon which to base a decision. If you feel that there is insufficient time to digest new information or that there is insufficient information before you, request that further information and, if necessary, seek a deferral.
- **Do not** vote or take part in the discussion and voting on a proposal unless you have been present to hear the entire debate, including the officers presentation.
- **Do not** allow members of the public to communicate with you during the Panel proceedings other than through the public speaking protocol, as this may give the appearance of bias.
- **Do** have recorded the reasons for the Panel's decision to defer any proposal.
- **Do** make sure that if you are proposing or supporting a decision contrary to officer recommendations that you clearly identify and understand the planning reasons leading to this conclusion. These reasons must be given before the vote and be recorded. Remember that you may have to justify these by giving evidence in the event of a challenge.

15.0 PUBLIC SPEAKING PROTOCOL

- 15.1 All members are entitled to speak at a Panel meeting in accordance with the Public Speaking Protocol either as an individual, representative or ward member.
- 15.2 However, where you have a disclosable pecuniary interest in the application then you may attend and speak in accordance with the protocol but only for the purpose of making representations, answering questions or giving evidence relating to the matter in the same manner as would apply to a normal member of the public. Once you have finished, or the meeting decides you have finished, you must leave the meeting room whilst the meeting considers the proposal even though members of the public may remain.

16.0 TRAINING

- 16.1 Members serving on Plans Panel must attend two training sessions each and every year:
- a Planning Update session, to receive guidance in relation to regulations and procedures; and
 - a Governance and Conduct session, for training on disclosable pecuniary interests and the Members' Code of Conduct.
- 16.2 Failure to undertake either or both sessions will result in the Elected Member being unable to sit on Plans Panel. Therefore, **do not** participate in decision making at the Plans Panel if you have not undertaken mandatory planning training.
- 16.3 **Do** try to attend any other specialised training session provided, since these will be designed to extend your knowledge of planning law, regulations, procedures and the Development Plan beyond the minimum required and assist you in carrying out your role properly and effectively.
- 16.4 **Do** revisit a sample of implemented planning permissions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public confidence in the planning system, and can help with reviews of planning policies.

17.0 MONITORING AND REVIEW

- 17.1 The Chief Planning Officer will report to the Standards and Conduct Committee regarding any proposals for amendment to this code of practice following consultation with the Joint Plans Panel.
- 17.2 The Chief Planning Officer shall monitor the following, and report annually to the Corporate Governance and Audit Committee regarding these matters:-
- (a) the number of appeals upheld;
 - (b) any external inspection reports in respect of relevant issues; and
 - (c) the number of Ombudsman reports finding maladministration by Members in the conduct of planning issues.

18.0 BREACHES OF THE CODE OF PRACTICE

- 18.1 Failure to comply with the Members' Code of Conduct may lead to a complaint to the Standards and Conduct Committee, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Member committing a criminal offence.
- 18.2 Failure to comply with this code of practice may lead to a finding of maladministration by the Ombudsman or could lead to a decision being challenged in the courts.

MONITORING OFFICER PROTOCOL**1.0 INTRODUCTION TO STATUTORY RESPONSIBILITIES**

- 1.1 The Monitoring officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged.
- 1.2 The role of the Monitoring Officer rests with the City Solicitor.
- 1.3 A summary list of the Monitoring Officer's responsibilities appears in the Annex attached. The Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and officers:-
- (a) complying with the law (including any relevant Codes of Conduct);
 - (b) complying with any general guidance, codes or protocols issued from time to time, by the Standards and Conduct Committee and the Monitoring Officer;
 - (c) making lawful and proportionate decisions; and
 - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute.

2.0 WORKING ARRANGEMENTS

- 2.1 Having excellent working relations with Members and officers will assist in the discharge of the statutory responsibilities by the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.
- 2.2 The following arrangements and understandings between the Monitoring Officer, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-

2.2.1 Resources

- (a) report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions;
- (b) have sufficient resources to enable him/her to address any matters concerning his/her Monitoring Officer functions;
- (c) have control of a budget sufficient to enable him/her to seek Counsel's opinion on any matter concerning his/her functions;

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- (d) appoint a deputy and keep him/her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer;

2.2.2 Access to information/meetings

- (a) be alerted by Members and officers to any issue(s) that may become of concern to the authority, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) have advance notice, (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the authority (including meetings at which officer delegated decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- (c) have the right to attend (including the right to be heard) any meeting of the authority (including meetings at which officer delegated decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- (d) be a member of the Corporate Leadership Team and will have advance notice of those meetings, agenda and reports and the right to attend and speak;
- (e) in carrying out any investigation(s), have unqualified access to any information held by the Council and to any officer who can assist in the discharge of his/her functions;

2.2.3 Relationships

- (a) ensure the other statutory officers (Head of Paid Service and the Section 151 Officer) are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (c) have a close working relationship of respect and trust with the Lord Mayor, Deputy Lord Mayor and the chairs of the Executive Board, Standards and Conduct Committee, Scrutiny Boards, Area Committees and other Committees with a view to ensuring the effective and efficient discharge of Council business;
- (d) develop effective working liaison and relationship with the Audit Commission, the External Auditors and the Local Government Ombudsman (including

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having the authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);

- (e) in consultation, as necessary, with the Leader and the Executive Board, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- (f) make arrangements to ensure effective communication between his/her office and clerks to parish councils on Monitoring Officer and Standards and Conduct Committee issues;

2.2.4 Ombudsman Complaints

- (a) prepare reports as required by the Local Government Act 1974 and the Local Government and Housing Act 1989 in relation to complaints which have been the subject of investigation by the Local Government Ombudsman and which have revealed maladministration whether or not that maladministration has caused injustice;
- (b) prepare reports to Members where considered necessary to bring to their attention issues of importance arising out of complaints made to the Local Government Ombudsman whether or not investigated or maladministration found;

2.2.5 Standards Matters

- (a) refer relevant matters to the Standards and Conduct Committee in accordance with the 'Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct within the area of Leeds Metropolitan District Council';
- (b) make arrangements for, prepare reports for, and advise meetings of the Consideration Sub-Committee of the Standards and Conduct Committee;
- (c) give informal advice to Members in relation to informal resolution of a complaint;
- (d) subject to the approval of the Standards and Conduct Committee, be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues;
- (e) establish, maintain¹ and publish² the statutory register of Members' interests³;

¹ The arrangements for maintaining and updating the register will be reported to the Standards and Conduct Committee annually as part of the report required under paragraph 5.0 of this Protocol.

² Published on the Council's website www.leeds.gov.uk.

³ In relation to Leeds City Councillors, voting co-opted Members of Leeds City Council, and Members of Parish and Town Councils in the Leeds area.

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- (f) to receive written requests for dispensations from Members and Co-opted Members of Leeds City Council, and to refer such requests to the Standards and Conduct Committee;

2.2.6 Constitution

- (a) review and monitor the Constitution in accordance with the arrangements set out in Article 15.1 of the Constitution and consult with the Section 151 Officer and Head of Paid Service before taking any report to the relevant Committee to approve amendments to the Constitution.

3.0 MEMBER AND OFFICER RESPONSIBILITIES

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and officers will report any breaches of statutory duty or Council policies or procedures and other vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

4.0 ADVICE

The Monitoring Officer is also available for Members and officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (eg Council Procedure Rules, Policy Framework, Terms of Reference, Scheme of Delegations, etc).

5.0 MONITORING THE PROTOCOL

Annually, the Monitoring Officer will report to the Standards and Conduct Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.

6.0 SANCTIONS FOR BREACH OF PROTOCOL

Complaints of a breach of this Protocol by an Officer will be referred to the relevant Director and/or the Chief Executive for appropriate action to be considered, including disciplinary investigation.

SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 and 5A Local Government and Housing Act 1989.
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 and 5A Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on sufficiency of resources.	Section 5 Local Government and Housing Act 1989.
5	Establish, maintain and publish registers of Members' interests ⁴ .	Section 29 Localism Act 2011
6	Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.	Local Authorities (Contracts) Regulations 1997.
7	Maintain, review and monitor the Constitution.	Constitution - Articles 12.3 and 15.1
8	Proper officer for the receipt of dispensations.	Section 33 Localism Act 2011
9	Proper Officer for access to information	Constitution - Article 12, and DETR guidance.
10	Advise whether executive decisions are within the budget and policy framework	Constitution Article 12
11	Advise on vires issues, maladministration, financial impropriety, probity budget and policy framework issues to all Members.	Constitution Article 12 and DETR guidance

⁴ In relation to Leeds City Council and Parish and Town Councils in the Leeds area.

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A PROTOCOL FOR MEMBER/OFFICER RELATIONS

1.0 INTRODUCTION AND PRINCIPLES

- 1.1 The objectives of this Protocol are to guide Members¹ and officers of the Council² in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.
- 1.2 The Council has adopted Codes of conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.3 Members and officers must at all times observe this Protocol. This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.4 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Standards and Conduct Committee and/or Monitoring Officer.
- 1.5 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members.
- 1.6 Given the variety and complexity of relations between Members and officers of the Council, this Protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.

2.0 THE ROLE OF MEMBERS

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
- 2.2 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.

¹ Unless the context indicates otherwise, the terms Member and Members include non-elected i.e. co-opted Members as well as elected councillors.

² Unless the context indicates otherwise, references to the term Council include the executive, overview and scrutiny committees, and other committees and sub-committees

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- 2.3 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.4 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.5 Every Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 2.6 Some Members have roles relating to their position as members of the Executive, Scrutiny Boards, Area Committees or other committees and sub-committees of the Council.
- 2.7 Members serving on Scrutiny Boards monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
- 2.8 Members serving on Area Committees work to promote and improve the economic, social and environmental well-being of the Committee's area and exercise Area Functions. In addition they advise the Council in relation to local community interests and proposals affecting the committee's area.
- 2.9 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
- 2.10 Some Members may be appointed to represent the Council on local, regional or national bodies.
- 2.11 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 2.12 Members are not authorised to instruct officers other than:
 - through the formal decision-making process;
 - to request the provision of consumable resources provided by the Council for Members' use⁴.
- 2.13 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.14 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration.

⁴ See paragraph 21 of this Protocol.

- 2.15 Members must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees, and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.
- 2.16 Members should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction Members should be aware of the requirements of the Contracts Procedure Rules and relevant guidance.

3.0 THE ROLE OF OFFICERS

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council, officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 3.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers' involvement in political activities.
- 3.8 Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

4.0 THE RELATIONSHIP: GENERAL POINTS

- 4.1 Members are elected by, and officers are servants of the public and Members and officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the electorate and serve only so long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction and control of the Council.

Protocol on Member/Officer Relations

- 4.2 The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.
- 4.4 Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to other Members and Officers. To protect both Members and officers, officers should address Members as 'Councillor XX/Lord Mayor, save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting between a Director and their respective Executive Member.
- 4.5 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.6 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 4.7 A Member should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.
- 4.8 A Member who feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer should:
- avoid personal attacks on, or abuse of, the officer at all times,
 - ensure that any criticism is well founded and constructive,
 - never make a criticism in public, and
 - take up the concern with the officer privately.

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- 4.9 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, s/he should raise the matter with the respective Director. The Director will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.10 Challenge in a constructive and non-confrontational way is important in ensuring policies and service performance are meeting the Council's strategic objectives, especially during the Scrutiny process. Nothing in this protocol is therefore intended to stop Members holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from a Scrutiny Board except in relation to Council functions. A Scrutiny Board may also call-in Key Decisions before they are implemented. Members may also individually request sight of delegated decision notifications, and raise queries about a decision with the decision-maker or an appropriate senior officer.
- 4.11 Where an officer feels that s/he has been the subject of a sustained or systematic challenge which is unfounded or in any other way unreasonable by a Member, s/he should raise the matter with his/her Director⁵, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Director, will after consultation with the complainant take appropriate action either by approaching the individual Member and/or group whip or by referring the matter to the Monitoring Officer.

5.0 THE RELATIONSHIP: DECISION MAKING

- 5.1 The executive arrangements adopted by the Council provide for a scheme of delegation. The details of this scheme are set out in Part 3 of the Constitution and in separate sub delegation schemes.
- 5.2 Both Members and officers have responsibility for decision making within the scheme of delegation for both Council⁶ and Executive⁷ functions.
- 5.3 Members and officers will comply with the advice and guidance set out in the Protocol for the Respective Roles of Members and Officers in Decision Making⁸, in addition to any other relevant code or guidance, whilst involved in the decision making process.

⁵ "Director" is defined by footnote 1 to Article 12 of the Constitution.

⁶ See part 3 Section 2 of the Constitution

⁷ See part 3 Section 3 of the Constitution

⁸ Part 5 of the Constitution

6.0 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS: GENERAL POINTS

- 6.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and Members should avoid inappropriate involvement in such matters.
- 6.2 Officers will provide support to both the Executive and all Members in their respective roles.
- 6.3 The respective roles and responsibilities of Members and officers in relation to employment issues are set out in the Officer Employment Procedure Rules.
- 6.4 If participating in the appointment of officers, Members should:
- remember that the sole criterion is merit⁹;
 - never canvass support for a particular candidate;
 - not take part where one of the candidates is a close friend or relative;
 - not be influenced by personal preferences; and
 - not favour a candidate by giving him/her information not available to the other candidates.
- 6.5 A Member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the Member has had a working relationship.
- 6.6 Certain statutory officers – the Chief Executive as Head of Paid Service, the Monitoring Officer and the Director of Resources as the Chief Finance Officer (S151¹⁰ officer) – have specific roles. These are addressed in the Constitution. The roles need to be understood and respected by all Members.
- 6.7 The following key principles reflect the way in which the officer corps generally relates to Members:
- all officers are employed by, and accountable to the Council as a whole;
 - they have a duty to implement the properly authorised decisions of the Council;
 - support from officers is needed for all the Council's functions including Full Council, Scrutiny Boards, the Executive, Regulatory Panels, individual Members representing their communities etc;
 - day-to-day managerial and operational decisions remain the responsibility of the Chief Executive and other officers;
 - Officers will be provided with training and development to help them support the various Member roles effectively and to understand the structures.
- 6.8 On occasion, a decision may be reached which authorises named officers to take action following consultation with a Member or Members. The Member or Members may offer his/her views or advice to the officer who must take them into account. The Member or Members must not apply inappropriate pressure on the officer. The decision remains the responsibility of the officer him/herself. It must be recognised that it is the officer, rather than the Member or Members, who takes the action and it is the officer who is accountable for it.

⁹ (other than in the case of political assistants where political consideration may apply)

¹⁰ S151 Local Government Act 1972

- 6.9 Finally, it must be remembered that officers are accountable to a Director. That is, officers work to the instructions of their senior officers, not individual Members. It follows that, whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.
- 6.10 Whilst officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director. Where appropriate, officers should make a Member aware of the limits of the officer's authority and explain that the matter would have to be referred to the Director.
- 6.11 Officers will do their best to give timely responses to Members' enquiries. Officers' work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.
- 6.12 Members will endeavour to give timely responses to enquiries from officers¹¹.
- 6.13 An officer shall not discuss with a Member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward Member.
- 6.14 Members and officers should respect each other's free (i.e. non-Council) time.

7.0 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS AND PARTY GROUPS

- 7.1 It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.
- 7.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 7.3 The support provided by officers can take many forms. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 7.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and officers alike. In particular:

¹¹ See further paragraph 17 in respect of correspondence.

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- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
- party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
- the presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
- where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.

- 7.5 Special care needs to be exercised whenever officers are requested to provide information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, officers may not be able to give the same level of advice as they would to a Members only meeting nor give advice to such meetings.
- 7.6 Officers have the right to refuse a request to attend a party group and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.
- 7.7 The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 7.8 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
- 7.9 An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
- 7.10 An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 7.11 No member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.

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- 7.12 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group or to any other Members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- 7.13 In relation to budget proposals:
- (a) the controlling political group shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the group or until published in advance of Committee/Council meetings, whichever is the earlier; and
 - (b) the opposition groups shall also be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.
- 7.14 It must not be assumed by any party group or Member that any officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
- 7.15 Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

8.0 OFFICER SUPPORT TO COMMITTEES AND SUB-COMMITTEES

- 8.1 The appropriate senior officers will offer to arrange regular informal meetings with chairs of committees and sub-committees.
- 8.2 Senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to present reports and give advice to committees and sub-committees.
- 8.3 Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.

9.0 OFFICER SUPPORT TO THE EXECUTIVE¹²

- 9.1 It is clearly important that there should be a close working relationship between Executive Members and the officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Members and other party groups.
- 9.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a Director or other senior officer will always be

¹² References to the term *Executive* refers to the Leader and Cabinet

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fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

9.3 The Executive and its Members have wide ranging leadership roles. They will:

- lead the community planning process and the search for Best Value, with input and advice from Scrutiny Boards, area committees and any other persons as appropriate;
- lead the preparation of the Council's policies and budget;
- take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
- be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

9.4 Executive Members will take decisions in accordance with the Constitution and will not otherwise direct officers. Senior officers will be responsible for instructing officers to implement the Executive's decisions.

9.5 Officers will make arrangements for briefing Members of the Executive about business within their remit. Senior officers and Executive Members shall agree mutually convenient methods of regular contact.

9.6 Where functions which are the responsibility of the Executive are delegated to officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out. Scrutiny Boards may call in and review the decisions of the Executive Board and officers acting under delegated authorities and report the outcome of its review to Council, the Executive Board and Officers as appropriate.

9.7 If agreed by the Leader, individual Executive Members may be allowed to formally take decisions. At present individual Executive Members¹³ have no authority to take decisions. Where such delegation has been agreed by the Leader, individual Executive Members must satisfy themselves that they are clear what exactly they can and cannot do¹⁴.

¹³ Other than the Leader

¹⁴ Where other individual Members can formally take decisions, the Council will put in place mechanisms/protocols which ensure that (as with the Council, its Committees and Sub-Committees, and the Executive and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional Officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.

Decisions taken by individual Members of the Executive will give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Members of the Executive would always need to be

- 9.8 Officers work for and serve the Council as a whole. Nevertheless, as the majority of functions are the responsibility of the Executive, it is likely that in practice many officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the officers. Officers must ensure that, even when they are predominantly providing advice and assistance to the Executive, their political neutrality is not compromised.
- 9.9 In organising support for the Executive, there is a potential for tension between Directors and Executive Members with portfolios. All Members and officers need to be constantly aware of the possibility of such tensions arising and both officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.
- 9.10 The administrative and clerical support available to Executive, Deputy Executive Members and Support Executive Members is set out in paragraph 6 of the Protocol for the respective Roles of Members and Officers in Decision Making.

10.0 THE RELATIONSHIP: OFFICER AND SCRUTINY BOARDS

- 10.1 Scrutiny Boards have both a Scrutiny role and a Policy Development and Review role.
- 10.2 In exercising the right to call-in a decision of the Executive, Members of Scrutiny Boards must seek officer advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.
- 10.3 Provisions relating to the attendance of officers at a Scrutiny Board are set out in the Scrutiny Board Procedure Rules,
- 10.4 Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
- 10.5 When making requests for officer attendance, Scrutiny Board Members shall have regard to the workload of officers.
- 10.6 It is recognised that officers required to appear before a Scrutiny Board may often be those who have advised the Executive or another part of the Council on the matter under investigation. Any requirement for external support will be dealt with in accordance with the Scrutiny Board Procedure Rules guidance notes.
- 10.7 Officers should be prepared to justify advice given to the Council, the Executive, or other committees and sub-committees even when the advice was not accepted.
- 10.8 In giving evidence, officers must not be asked to give political views.
- 10.9 Officers should respect Members in the way they respond to Members' questions.

aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Finance Officer as appropriate) which will arise from their decisions.

- 10.10 Scrutiny proceedings must not be used to question the capability or competence of officers. Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of officers.
- 10.11 Officers and Members should be aware of the following government guidance relating to Scrutiny Boards, and specifically their scrutiny role:
- Officers' evidence should so far as possible, be confined to questions of fact and explanation relating to policies and decisions.
 - Officers may explain: what the policies are; the justification and objectives of those policies as the Executive sees them; the extent to which those objectives may have been met and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
 - Officers may, and in many cases should, be asked to explain and justify advice they have given to Members of the Executive prior to a decision being taken and they should also be asked to explain and justify decisions they themselves have taken under delegations from the Executive.
 - As far as possible, officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Executive's policies and actions should always be consistent with the requirement for officers to be politically impartial.
- 10.12 In connection with the Scrutiny Boards Policy Development and Review role, officers may reasonably be expected to advise on the effects which would arise out of the adoption of alternative policy options. Any advice on the development of policies should be consistent with the requirement for officers to be politically impartial.
- 10.13 Scrutiny Board's questioning should be directed towards establishing the facts about what occurred in the making of decisions or implementing Council policies, and not towards the allocation of criticism or blame. A Scrutiny Board may recommend (but not require) the Chief Executive to institute a formal enquiry for this purpose.
- 10.14 The Scrutiny Board Procedure Rules set out general principles relating to all Scrutiny Board witnesses, including notification requirements. If questioning should stray substantially outside the matters that the Board had previously indicated, the Chair should consider whether an adjournment may need to be considered to enable officers to provide the required information. Questioning should not stray outside any terms of reference agreed for an Inquiry.
- 10.15 The Scrutiny Board Procedure Rules enable Scrutiny Boards to appoint Working Groups. There is a separate guidance note which provides guidance to Members and officers with regard to the activities of Scrutiny Board Working Groups.

- 10.16 In relation to complaints brought by an individual (Members, officers, or members of the public) about decisions affecting them individually, a Scrutiny Board must not act as an alternative to normal appeals procedures, whether internal, such as the Corporate Complaints procedure, or external, such as the Local Government Ombudsman, or an appeal to a Court. A Scrutiny Board should not normally pass judgements on the merits of such a decision.
- 10.17 In respect of officer support to Scrutiny Boards, Scrutiny Board Chairs are provided with dedicated administrative and clerical support to assist them in carrying out their duties. In addition, to assist Scrutiny Boards in undertaking comprehensive independent inquiries, the Scrutiny Support Unit provides the Scrutiny Boards with professional and administrative help. The Council's Directors remain responsible for providing specialised professional advice and should advise Scrutiny Board of reasons where they would not wish to provide such services.

11.0 THE RELATIONSHIP, OFFICER SUPPORT TO AREA COMMITTEES

- 11.1 Area Committees have both Executive and Council functions¹⁵. These are set out in the Terms of Reference for Area Committees.
- 11.2 The Area Committee Procedure Rules set out how meetings of Area Committees should be conducted.
- 11.3 Area Committees must make decisions following consideration of a report from the relevant Director or his/her nominee. The Area Committee is entitled to request a report in relation to any matter within their terms of reference that the Area Committee wish to consider. Such requests should always be made to the relevant Director who may nominate another officer to provide the report if appropriate.
- 11.4 Officers who present reports to Area Committees may copy the report to such of the other Area Committees as the officer thinks fit, if of the view that the report would be relevant to those Committees.
- 11.5 Area Committees may request that report authors attend meetings. When doing so they should have regard to the workload of the officer in question.
- 11.6 All questions addressed to officers attending Area Committees shall be addressed through the Chair of the Committee.
- 11.7 The Area Committee Procedure Rules provide for an Open Forum¹⁶ for members of the public to make representations or ask questions on matters within the terms of reference of the Area Committee. The Chair of the Committee shall ensure that officers are only asked questions which pertain to their report.
- 11.8 Officers should respect Members in the way they respond to Members questions. If unable to provide a direct response to a question at an Area Committee meeting officers shall respond in writing to the Committee Chair as soon as they are able.

¹⁵ The Executive functions are well being functions and other Area functions which are determined by the Executive Board.

¹⁶ See rules 6.24 and 6.25

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- 11.9 Where advisory or consultative forums are established by the Area Committee Members and officers shall apply this guidance equally to their involvement in those groups.
- 11.10 From time to time additional meetings are convened by Members in respect of local matters. Whilst these meetings are not always meetings of the Area Committee officers will provide appropriate support to these meetings. Members should therefore ensure that appropriate notice is given of all such meetings.
- 11.11 When convening meetings in relation to local matters care should be taken to distinguish between party group meetings and area meetings.

12.0 THE RELATIONSHIP, OFFICER SUPPORT TO REGULATORY PANELS¹⁷

- 12.1 At the request of a Chair of a Regulatory Panel, a briefing shall be arranged prior to a meeting of the Panel.
- 12.2 The Chief Executive is responsible for determining the agenda for a formally convened meeting of a Regulatory Panel, in consultation with the Chair of the Panel.
- 12.3 Members and officers need to be aware of additional Codes and Protocols which may refer to their specific area, such as the Code of Practice for Councillors responsible for determining Planning applications.

13.0 LORD MAYOR AND OFFICERS

- 13.1 Officers will respect the position of Lord Mayor and provide appropriate support.
- 13.2 Detailed guidance for the Lord Mayor and support staff is contained within the Guidelines for Civic Dignitaries¹⁸.

14.0 MEMBERS AND OFFICERS ON OUTSIDE BODIES

- 14.1 Members and officers serving on outside bodies will treat one another professionally and with respect.
- 14.2 Members and officers should be aware of their role on any outside body to which they are appointed. In particular they should be aware of whether they are appointed:-
- As a representative of the Council
 - As a ward Member, representing the local community
 - As a group Member, or

¹⁷ For the purposes of this Protocol only, any reference to “Regulatory Panels” includes a reference to the Licensing Committee and its sub-committees

¹⁸ Copies of the Guidelines for Civic Dignitaries may be obtained from the Head of Civic and Ceremonial Support or from the Lord Mayor’s secretary.

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- In their individual capacity

14.3 Where Members and officers are appointed to an outside body as a representative of the Council they should ensure that they are aware of the Council's position in relation to matters within the body's remit.

14.3.1 The appointee should seek to abide by the Council's position in relation to that matter unless their duties and responsibilities to the outside body prevent this.¹⁹

14.3.2 Should a Member and an officer both be appointed to the same body as the Council's representatives they should seek to agree their understanding of the Council's position prior to any meeting of the body.

14.4 If a Member or officer is appointed to an outside body in a capacity other than as the Council's representative they are not obliged to abide by the Council's position in respect of any matter. They should however seek to ensure that any view that they express or action they take can not be perceived as bringing the Council into disrepute.

14.4.1 If a Member and an officer have a disagreement in relation to a matter within the remit of that body, arising out of their respective roles on the body, they will treat that disagreement in a professional manner. In particular both the Member and the officer will take steps to ensure that the disagreement does not affect the nature of their relationship within their respective roles as Member and officer of the Council.

14.5 The Appointments to Outside Bodies Procedure Rules (Part 4(h) of the Constitution) make provision for support to Members appointed to external organisations.

15.0 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

15.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

15.2 Detailed guidance regarding the provision of support to Members by support staff in Democratic Services is contained within the Guidelines for Democratic Services Support to Members²⁰.

16.0 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

16.1 Members have the ability to ask for information pursuant to their legal rights to information. Further details of these rights are set out in the Access to Information Procedure Rules.

¹⁹ For example, where the appointment is as a Director or Trustee of the outside body.

²⁰ Copies of the Guidelines For Democratic Services Support To Members may be obtained from the Director of Resources or from Group Support Managers.

17.0 CORRESPONDENCE

- 17.1 Correspondence²¹ between an individual Member and an officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary for an officer to copy the correspondence to another Member, the original Member will be advised before any such correspondence is copied. In other words, a system of 'silent copies' should not be employed. However, it may be appropriate in certain circumstances for Members to copy correspondence to an officer, for example to Ward colleagues.
- 17.2 Paragraph 17.1 above should not be taken to prevent the copying of correspondence where necessary as part of the background information when briefing an Executive or Deputy Executive Member in relation to the history of any matter. In addition it should be noted that the Council may have to release copies of correspondence in accordance with Freedom of Information Legislation²².
- 17.3 Official letters on behalf of the Council (as distinct from letters in response to constituent's queries) should normally be sent in the name of the appropriate officer, rather than the name of a Member. It may be appropriate in certain limited circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader, but this should be the exception rather than the norm.
- 17.4 Letters which create legally enforceable obligations or which give Instructions on behalf of the Council should never be sent in the name of a Member.
- 17.5 When writing in an individual capacity as a ward Member, a Member must make clear that fact.
- 17.6 Officers should respond promptly to correspondence from Members.
- 17.7 When entering into correspondence with one another both Members and officers should ensure that they maintain their recognition of and respect for each other's roles and responsibilities. As with other areas of their relationship Members and officers should conduct correspondence in a positive and constructive way and observe the same level of courtesy and respect.

18.0 PUBLICITY AND PRESS RELEASES

- 18.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors, and non-domestic rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness

²¹ "Correspondence" in this context means letters, memoranda, reports, advice, briefing notes or any other documentation prepared specifically by an officer for a Member

²² For details please see Access to Information Procedure Rules

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of a Council's activities is, in the words of the Government, to be welcomed. The Local Government Act 1986 prohibits political publicity – this is defined as any material which, in whole or in part, appears to be designed to affect public support for a political party. This prohibition also extends to regulated companies such as the ALMOs.

18.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that the Council's decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as s/he thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity, and such other matters as s/he thinks appropriate. The main principles of the Code are:

- That publicity relating to individual Members should relate to their role as a holder of a particular position and personalisation of issues or personal image making should be avoided.
- Publicity should be factual and designed to raise public awareness and its primary purpose must not be to persuade members of the public to hold a particular view on a matter of policy.
- Particular care should be taken when publicity is issued immediately before an election or by-election to ensure that this could not be perceived as seeking to influence public opinion, or to promote the image of a particular candidate, or group of candidates. The Code provides 'between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members'.

The Code also applies to other bodies funded by the Council, where that funding could be used for publicity, for example the ALMOs.

18.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, officers and/or Members should initially seek advice from the Monitoring Officer. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Monitoring Officer as appropriate.

18.4 Contact with the media, including issuing press releases, should be carried out in accordance with any relevant protocols (for example those adopted by the Executive Board).

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- 18.5 Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
- 18.6 Officers will keep relevant Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters. Before responding to enquiries from the media, officers shall ensure they are authorised to do so.
- 18.7 Likewise, officers will inform the Council's Corporate Communications Team of issues likely to be of media interest, since that unit is often the media's first point of contact.
- 18.8 If a Member is contacted by, or contacts, the media on an issue, he/she should:
- indicate in what capacity he/she is speaking (e.g. as ward Member, in a personal capacity, as an Executive Member, on behalf of the Council, or on behalf of a party group);
 - be sure of what he/she wants to say or not to say;
 - if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's Communications Team and/or relevant senior officer, except in relation to a statement which is party political in nature²³;
 - consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
 - never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
 - consider whether to consult other relevant Members; and
 - take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist. Council resources must never be used to affect public support for a political party.

19 INVOLVEMENT OF WARD COUNCILLORS

- 19.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be referred to the relevant Area Committee for consideration. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.
- 19.2 Whilst support for Members' ward work is legitimate, care should be taken if officers are asked to accompany Members to ward surgeries. In such circumstances:
- the surgeries must be open to the general public, and

²³ Any press releases issued regarding a Groups views which are issued through Group Offices must be issued in accordance with the Guidelines for Democratic Services Support to Members.

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- officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.

19.3 Officers must never be asked to attend ward or constituency political party meetings.

19.4 It is acknowledged that some officers (e.g. those providing dedicated support to Executive Members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

19.5 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested time-scale, and may need to seek instructions from their managers.

20.0 ACCESS TO PREMISES

20.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.

20.2 Members have a right of access to Council land and premises to fulfil their duties.

20.3 When making visits as individual Members, Members should:

- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
- comply with health and safety, security and other workplace rules;
- not interfere with the services or activities being provided at the time of the visit;
- if outside his/her own ward, notify the ward Members beforehand; and
- take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

21.0 USE OF COUNCIL RESOURCES

21.1 The Council provides all Members with services such as typing, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

21.2 Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:

- where facilities are provided in Members' homes at the Council's expense;

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- In relation to any locally-agreed arrangements e.g. payment for private use or photocopying; and
- regarding ICT security.

21.3 Detailed guidance regarding the use by Members of ICT equipment is contained within the Guidelines for Members using ICT Equipment²⁴.

21.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:

- business which is solely to do with a political party;
- work in connection with a ward or constituency party political meeting; electioneering;
- work associated with an event attended by a Member in a capacity other than as a Member of the Council;
- private personal correspondence;
- work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
- support to a Member in his/her capacity as a councillor of another local authority.

22.0 CO-OPTED MEMBERS

22.1 Officers should provide the same level of support to Co-opted Members of a Scrutiny Board, as they provide to other (elected) Members, for example by providing them with the same papers, briefings and training opportunities. Officers and elected Members should afford Co-opted Members the same level of respect and opportunity to contribute (so far as their role permits them to do so), as to any other Member of the Board.

23.0 CONCLUSION

23.1 Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and officers.

24.0 BREACHES OF THE PROTOCOL

24.1 In relation to Members, failure to comply with the Members' Code of Conduct may lead to a complaint to the Standards and Conduct Committee, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Member committing a criminal offence.

24.2 Allegations of breaches by officers will be referred to the employee's Director for consideration of appropriate action including disciplinary investigation under the Council's Disciplinary Rules.

²⁴ Copies of the Guidelines for Members Using ICT Equipment may be obtained from the Director of Resources, Chief ICT Officer or Group Support Managers.

25.0 MONITORING AND INTERPRETATION

- 25.1 The Monitoring Officer will report to the Standards and Conduct Committee regarding any proposals for amendment to this protocol.
- 25.2 Questions on the interpretation of this protocol will be determined by the Monitoring Officer.

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Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 20th July 2012

Subject: Standards and Conduct Committee Work Programme

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1 Purpose of this report

- 1.1 This report is to notify Members of the draft work programme for the Standards and Conduct Committee. The draft work programme is attached at Appendix 1.

2 Background information

- 2.1 The work programme provides information about the future items for the Standards and Conduct Committee agenda, when items will be presented and which officer will be responsible for the item.

3 Main issues

- 3.1 Members are requested to consider whether they wish to make any amendments or add any items to the work programme.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 This report consults Members on the content of the work programme of the Committee.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications arising from this report.

4.3 Council Policies and City Priorities

4.3.1 The work of this Committee helps the Council to fulfil the principles of the Code of Corporate Governance by promoting good conduct and behaviour.

4.4 Resources and Value for Money

4.4.1 There are no implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The work of the Committee fulfils the Council's legal duty under the Localism Act 2011 to promote and maintain high standards of conduct amongst Members and Co-opted Members of the Council.

4.6 Risk Management

4.6.1 There are no implications arising from this report.

5 Recommendations

5.1 Members are asked to note the work programme and advise officers of any amendments or items they wish to add.

6 Background documents¹

6.1 None.

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

STANDARDS AND CONDUCT COMMITTEE - WORK PROGRAMME 2012/13

ITEM	DESCRIPTION	RESPONSIBLE OFFICER
Meeting date: Friday, 19th October 2012		
Training on the Code of Conduct for Leeds City Councillors	To receive a report outlining the training that has been offered to Members of Leeds City Council on the new standards arrangements, and the extent of participation in this training.	Senior Corporate Governance Officer – Amy Kelly
Review of the Code of Practice for the Determination of Planning Matters	To review the comments and suggestions received from the Joint Plans Panel, and to approve the amended Code of Practice.	Development Project Manager - Helen Cerroti
Review of the Code of Practice for the Determination of Licensing Matters	To review the comments and suggestions received from the Licensing Committee, and to approve the amended Code of Practice.	Section Head (Regulatory and Enforcement) - Gill Marshall
Employee Code of Conduct	To be consulted on any amendments proposed to the Employee Code of Conduct.	Head of Human Resources – David Almond
Meeting date: Friday, 11th January 2013		
Review of the standards and conduct arrangements	To consider whether the new standards and conduct arrangements are operating effectively and remain fit for purpose, including the Members' Code of Conduct.	Head of Governance Services – Andy Hodson

STANDARDS AND CONDUCT COMMITTEE - WORK PROGRAMME 2012/13

ITEM	DESCRIPTION	RESPONSIBLE OFFICER
Appointment of the Independent Person	To review the role description of the Independent Person in light of how the new arrangements have operated since July 2012, and to consider the recruitment process for the new Independent Person.	Senior Corporate Governance Officer – Amy Kelly
Meeting date: Friday, 12th April 2013		
Annual report on complaints under the Members' Code of Conduct	To receive a report detailing the number of complaints made under the Members' Code of Conduct since 1 st July 2012 and how they have been resolved, and highlighting any areas of concern.	Head of Governance Services – Andy Hodson
Review of the standards and conduct arrangements	To make recommendations to General Purposes Committee and full Council regarding any changes to the standards and conduct arrangements, including proposed amendments to the Members' Code of Conduct.	Head of Governance Services – Andy Hodson
Annual report of the Monitoring Officer	To receive an annual report from the Monitoring Officer regarding whether the arrangements set out in the Monitoring Officer Protocol have been complied with.	City Solicitor – Catherine Witham